





Class No. 342-54

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# Indian Round Table Conference

12th November, 1930—19th January, 1931

(SUB-COMMITTEES' REPORTS ;  
CONFERENCE RESOLUTION ;  
AND  
PRIME MINISTER'S STATEMENT)

*Presented by the Secretary of  
State for India to Parliament  
by Command of His Majesty.  
January, 1931*

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# INDIAN ROUND TABLE CONFERENCE.

## INTRODUCTORY NOTE.

The Indian Round Table Conference was inaugurated by His Majesty the King-Emperor at a public session in the Royal Gallery of the House of Lords on 12th November, 1930.

After the opening ceremony the Conference devoted five days in plenary session to a debate "on the question whether the future constitution of India should be on a federal or unitary basis." This general debate ranged over a wide field, but its most striking feature was declarations from delegates from the Indian States opening the way to the consideration of a new federal constitution for India, embracing both British India and Indian States.

On the conclusion of the general debate the Conference decided to set up a "Federal Relations Committee to consider the structure of a federal system of government in India as regards relations between Indian States and British India, and relations between Provinces of British India and the Centre, including the question of responsibility at the Centre, and to recommend the main principles to be applied."

It was, however, found more convenient to work through a Committee of the Whole Conference, instead of through this Committee, and the Committee of the Whole set up nine sub-Committees to consider the following questions :—

No.	Name of sub-Committee.	Subject or terms of Reference. •	Page in the vol.
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<i>No.</i>	<i>Name of sub-Committee.</i>	<i>Subject or terms of Reference.</i>	<i>Page in the vol.</i>
II	Provincial Constitution	The powers of the Provincial Legislatures. The constitution, character, powers and responsibilities of the Provincial Executives.	41
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V	North West Frontier Province.	To consider what modifications, if any, are to be made in the General Provincial Constitution to meet the special circumstances of the North West Frontier Province.	53
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The Reports of these nine sub-Committees are printed in the present volume on the pages shown above.

These Reports were received by the Committee of the Whole Conference and noted, together with the comments made on them in Committee of the Whole.

The Conference, after a final debate in plenary session ranging over the whole of its work, passed, unanimously, the Resolution (printed in full on page 72), accepting the Reports of the sub-Committees (and comments thereon in Committee of the Whole) as "material of the highest value for use in the framing of a constitution for India, embodying as they do a substantial measure of agreement on the main ground-plan."

The Prime Minister's closing speech on 19th January, 1931, containing a declaration on behalf of His Majesty's Government, is printed on pages 72 to 83.

Fuller papers, to be laid before Parliament shortly, will include the text of the debates in the Plenary Sessions, and the comments in the Committee of the whole Conference on the Reports of the sub-Committees. A supplementary volume will be made available, in due course, containing proceedings in the sub-Committees and the memoranda circulated to the Conference or its Committees.

*22nd January, 1931.*

# INDIAN ROUND TABLE CONFERENCE.

## LIST OF DELEGATES.

### BRITISH DELEGATIONS.

MR. RAMSAY MACDONALD.  
LORD SANKEY.  
MR. WEDGWOOD BENN.  
MR. HENDERSON.  
MR. THOMAS.  
MR. LEES SMITH.  
SIR WILLIAM JOWITT.  
LORD RUSSELL.

LORD PEEL.  
LORD ZETLAND.  
SIR SAMUEL HOARE.  
HON. O. STANLEY.

LORD READING.  
LORD LOTHIAN.  
SIR ROBERT HAMILTON.  
MR. FOOT.

### INDIAN STATES DELEGATION.

H.H. THE MAHARAJA OF ALWAR.  
†H.H. THE MAHARAJA GAEKWAR OF BARODA.  
H.H. THE NAWAB OF BHOPAL.  
H.H. THE MAHARAJA OF BIKANER.  
H.H. THE MAHARAJ RANA OF DHOLPUR.  
H. H. THE MAHARAJA OF JAMMU AND KASHMIR.  
H.H. THE MAHARAJA OF NAWANAGAR.  
H.H. THE MAHARAJA OF PATIALA.  
H.H. THE MAHARAJA OF REWA.  
H.H. THE CHIEF SAHIB OF SANGLI.  
SIR PRABHASHANKAR PATTANI.  
SIR MANUBHAI MEHTA.  
SARDAR SAHIBZADA SULTAN AHMED KHAN.  
NAWAB SIR MUHAMMAD AKBAR HYDARI.  
SIR MIRZA M. ISMAIL.  
COL. HAKSAR.

### BRITISH INDIA DELEGATION.

H.H. THE AGA KHAN.  
SIR RAMASWAMI AYYAR.  
\*MAULANA MUHAMMAD ALI.  
DR. AMBEDKAR.  
U AUNG THIN.  
U BA PE.  
SRIJUT CHANDRADHEAR BAROOAH.

MR. BASU.  
SIR SHAH NAWAZ BHUTTO.  
SIR HUBERT CARR.  
MR. CHINTAMANI.  
NAWAB SIR AHMAD SAID KHAN.  
MAHARAJA OF DARBHANGA.  
CAPTAIN RAJA SHER MUHAMMAD KHAN.

MR. FAZL-UL-HUQ.  
MR. OHN GHINE.  
MR. GHUZNABI.  
LIEUT.-COL. GIDNEY.  
SIR OSCAR DE GLANVILLE.  
SIR GHULAM HUSSAIN

HIDAYATULLAH  
KHAN BAHADUR HAFIZ HIDAYAT HUSAIN.

MR. JADHAV.  
MR. JAYAKAR.  
SIR COWASJI JEhangIR.  
MR. JINNAH.  
MR. GAVIN JONES.  
MR. JOSHI.  
DR. LAW.  
SIR B. N. MITRA.  
SIR PROVASH CHUNDER MITTER.  
MR. MODY.  
DR. MOONJE.

DIWAN BAHADUR RAMASWAMI MUDALIYAR.

RAJA NARENDRA NATH.  
RAO BAHADUR PANNIR SELVAM.  
RAJA OF PARLAKIMEDI.  
SIR A. P. PATRO.

MR. PAUL.  
NAWAB SIR ABDUL QAIYUM.  
DIWAN BAHADUR RAMACHANDRA RAO.

MR. SHIVA RAO.  
SIR SAYED SULTAN AHMED.  
SIR TEJ BAHADUR SAPRU.  
SIR MUHAMMAD SHAFI.  
SARDAR SAMPURAN SINGH.  
MR. SASTRI.  
SIR CHIMANLAL SETALVAD.  
KUNWAR BISHESHWAR DAYAL.  
SIR PHIROZE SETHNA.  
DR. SHAFAT AHMAD KHAN.  
BEGUM SHAH NAWAZ.  
RAO BAHADUR SRINIVASAN.  
MRS. SUBBARAYAN.  
MR. TAMBE.  
SARDAR SAHIB UJJAL SINGH  
SIR EDGAR WOOD.  
MR. ZAFRULLAH KHAN.

† Rao Bahadur Krishnama Chari acted as delegate in absence of H.H. the Gaekwar of Baroda.

\* Died January 4th, 1931.

## Sub-Committee No. 1. (Federal Structure.)

INTERIM REPORT PRESENTED AT THE MEETING OF THE COMMITTEE OF THE WHOLE CONFERENCE HELD ON 16TH DECEMBER, 1930.

### *Introductory.*

1. The sub-Committee\* was appointed to consider and report upon the following four of the Heads of discussion which were framed for the Federal Relations Committee :—

No. 1.—The component elements of the Federation.

No. 2.—The type of Federal Legislature and the number of Chambers of which it should consist.

No. 3.—The powers of the Federal Legislature.

No. 6.—The constitution, character, powers and responsibilities of the Federal Executive.

The sub-Committee thought that it would be for the convenience of the Conference to present an Interim Report dealing, in the first instance, with Nos. 1, 2 and 3 above. In view of the large issues raised by No. 6, which cannot be separated from those connected with the relation of the Federal Executive to the Crown (No. 12 of the Heads of discussion), it appeared to the sub-Committee that this Head, on the discussion of which they are proposing immediately to enter, should form the subject of a separate report.

2. The sub-Committee are in a position to report that a most encouraging degree of agreement on the matters comprised in Nos. 1, 2 and 3 has been secured. They recognise that any measure of federation involves for the States sacrifices in a sphere to which they have always attached the greatest importance for practical reasons as well as on grounds of existing treaties and sentiment. They recognise, on the other hand, the natural hesitation of the representatives of British India to accept any form of constitutional change which might be thought to endanger the unity of British India or those positive advantages which are derived from a uniform body of law and administrative practice. All parties of the sub-Committee were unanimous in preferring the welfare of India as a whole to the individual claims of the interests they represent and in the conviction that only in the larger unity can the diversity of interests and policies be completely harmonised. The sub-Committee are not dismayed by the criticism which may perhaps be made upon their conclusions, that the links between some parts of the Federation and others are but slender. A new State is not born full grown; it must contain within itself the capacity for growth. The attainment of full maturity must depend upon the efforts and devotion of the statesmen of India herself from whatever territory they may come.

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\* The composition of the sub-Committee is given on page 13.

The sub-Committee's conclusions are as follows :—

### CONCLUSIONS.

#### *I. Component elements of Federation.*

3. The component elements of the Federation should be on the one hand

(a) the federating Provinces of British India, and on the other hand,

(b) such Indian States or groups of States as may enter the Federation. Provision should be made for the subsequent entry from time to time of such further States or groups of States as agree to enter the Federation.

The important question of the position of the Crown will require further examination when the relation of the Federal Executive to the Crown is discussed.

4. So far as British India is concerned, the federating organism will be neither the Government of British India as it exists at present, nor autonomous Provinces released from the central tie. The process of Federation will involve the creation of a new State which will derive its powers

(a) in part from the powers which the States will agree to concede to the Crown, to be placed at the disposal of the new Federation; and

(b) in part from the transfer to it of such of the powers of the Central Indian Government (and also it may be of the Provincial Governments) as may be agreed to be necessary for the purposes of the Federation.

#### *II. Type of Federal Legislature and the number of Chambers of which it should consist.*

5. The Federal Legislature should consist of two Chambers, each containing representatives of both British India and the States (the proportion which the representatives of British India and of the States should bear to each other will be a matter for subsequent consideration under Heads not yet referred to the sub-Committee).

6. The method whereby the representatives of British India are to be chosen was not referred to this sub-Committee, but Their Highnesses made it clear that in their opinion the method by which the 'States' representatives should be chosen will be a matter for the States themselves. If and so long as there are any reserved subjects it will be necessary for the Crown to be represented in both Chambers.

7. Differences between the two Chambers might be determined either at a joint session or by other means, by vote, whether by a bare majority or otherwise being a question for discussion at a later stage.

### III. Powers of the Federal Legislature.

8. A list of subjects provisionally recommended as Federal subjects is appended. This list is framed on the assumption that the Federal Legislature will be clothed with power to legislate upon all the subjects included in it. The inclusion of certain subjects, e.g., Defence and External Affairs, was not specifically considered, since these subjects in particular, though not exclusively, raise the question of the relations between the Executive in India and the Crown—a matter not within the sub-Committee's terms of reference. It is of the essence of a Federal constitution that the enactments of the Federal Legislature acting within its legal scope should have full force and effect throughout all units comprised in the Federation.

9. Provision should be made by some constitutional procedure for additions from time to time to the list of Federal subjects.

10. In relation to Federal subjects a distinction is to be drawn between policy and legislation on the one hand and administration on the other. In some Federal systems there is a complete separation between Federal and State agency in the administrative as well as the legislative sphere, but in others the administration is entrusted, subject to certain Federal rights of inspection, etc., to the State authorities. The choice is a matter of convenience rather than of principle, depending upon conditions existing at the time of federation and the practical advantage or disadvantage of disturbing the *status quo*. For a variety of reasons there are cases in which States may desire to retain, in those matters in which they agree that the control of policy shall be federal, most of the administrative powers which they exercise at present, but in so far as they continue to exercise those powers, they will do so in conformity with a policy jointly determined and with regulations jointly formulated. Provided that the conditions for a harmonious evolution are established, it is an advantage that there should be a minimum of disturbance in the practical arrangements which already operate.

11. The precise delimitation of the functions of the Federal and State Governments respectively in these spheres will be a matter for settlement in respect of each subject by negotiation.

12. The sub-Committee are strongly of opinion that there should be only a single Legislature to deal with Federal subjects proper and with any subjects which cannot at present be either federalised or completely provincialised. Such a Legislature will no doubt contain representatives of units of the Federation which will not be concerned with some of the subjects with which it deals. But the partial acceptance of this anomaly is preferable to the difficulties and complications involved in any expedient for completely avoiding it, such as the creation of a separate British Indian Legislature with a separate Executive. How to deal with this anomaly will have to be considered at a later stage.

St. James's Palace,  
London.

12th December, 1930.



## APPENDIX TO INTERIM REPORT OF SUB-COMMITTEE No. I.

Schedule of Subjects provisionally agreed to as "Federal" with notes.

N.B.—The enumeration is that of the present list of Central Subjects—Devolution Rules, Schedule I.

*Notes.*

- |   |  |
|---|--|
| 5. Communications to the extent described under the following Heads, namely :—  |  |
| (a) Railways (including railways to be constructed or acquired in future).  | Policy and Legislation to be Federal. Administration to be Federal to the extent of powers now exercised by the Railway Board.   |
| (b) Aircraft and all matters connected therewith.   | Federal.   |
| (c) Inland waterways ... ..   | Policy and Legislation to be Federal in respect of inland waterways affecting more than one unit. Federal for Legislation and policy.  |
| 6. Shipping and navigation, including shipping and navigation on inland waterways in so far as declared to be a Federal subject in accordance with entry 5 (c). |  |
| 7. Lighthouses (including their approaches), beacons, lightships and buoys.   | Federal.   |
| 8. Port quarantine... ..  | Federal so far as international requirements are concerned.  |
| 9. Ports ... ..   | Such ports to be Federal as are declared to be major ports by rule made by Federal Government or by or under Legislation by the Federal Legislature, subject in the case of Indian States to such extent as authority may be delegated by the States under a convention.                           |
| 10. Posts, telegraphs, trunk telephones and wireless installations.   | Federal; but with such qualifications as may be necessary for the purposes of adjustment with the States in matters of detail.   |
| 11. Customs and salt ... ..   | Salt : Federal. Maritime Customs : Federal, subject to special adjustments with Maritime States having regard to their treaties, agreements and engagements. Customs on external frontiers of Federal India to be Federal on the lines of maritime customs subject to the special case of Kashmir. |

*Notes.*

- |   |   |
|---|---|
| 12. Currency and coinage ... ..   | Federal, subject to adjustment with the States concerned of such rights as are not already conceded by them.  |
| 13. Public Debt of Federal India.<br>(Power to raise Federal loans).  | Federal.  |
| 14. Savings banks ... ..  | Federal for policy and legislation regarding Post Office Savings banks.   |
| 15. Federal Audit ... ..  | Federal.  |
| 17. Commerce, including banking and insurance.  | Federal for policy and legislation.   |
| 18. Trading companies and other associations.   | Federal for policy and legislation.   |
| 20. Development of Industries ...   | Development of Industries to be a Federal subject in cases where such development by Federal authority is declared by order of Federal Government, made after negotiation with and consent of the federating units. |
| 21. Control of cultivation and manufacture of opium, and sale of opium for export.  | Federal for policy and legislation.   |
| 22. Stores and stationery, both imported and indigenous, required for Federal Departments.  | Federal.  |
| 23. Control of petroleum and explosives.  | Federal for policy and legislation.   |
| 24. Geological Survey of India ...  | Federal.  |
| 26. Botanical Survey of India ...   | Federal.  |
| 27. Inventions and designs ...  | Federal for policy and legislation.   |
| 28. Copyright ... ..  | Federal for policy and legislation.   |
| 29. Emigration from, and immigration into, India.   | Federal.  |
| 31. Federal police organisation ...   | Federal.  |
| 32. Traffic in arms and ammunition  | Federal for policy and legislation.   |
| 33. Central agencies and institutions for research (including observatories) and for professional and technical training or promotion of special studies. | Federal as regards future agencies and institutions.  |
| 35. Survey of India ... ..  | Federal.  |
| 38. Meteorology.  | Federal.  |
| 39. Census ... ..   | Federal for policy and legislation the States reserving administration.   |
| 39A. All-India statistics .. ..   | Federal.  |
| 40. Federal services ... ..   | Federal.  |
| 44. Immovable property acquired and maintained at the cost of the Federal Government.   | Federal.  |
| 45. The Public Service Commission   | Federal for the purpose of Federal services.  |

## Sub-Committee No. 1. (Federal Structure.)

SECOND REPORT, PRESENTED AT THE MEETING OF THE COMMITTEE  
OF THE WHOLE CONFERENCE HELD ON 15TH JANUARY, 1931.

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1. *Introductory*.—The sub-Committee consisted of the following members :—

*British Delegations :—*

The Lord Chancellor (*Chairman*).  
 Mr. Lees Smith, M.P.  
 The Earl Peel.  
 The Right Hon. Sir Samuel Hoare, Bart., M.P.  
 The Marquess of Reading.  
 The Marquess of Lothian.

*Indian States Delegation :—*

H.H. The Maharaja of Bikaner.  
 H.H. The Nawab of Bhopal.  
 Nawab Sir Muhammad Akbar Hydari, Hyderabad.  
 Sir Mirza M. Ismail, Mysore.  
 Colonel Haksar, Special Organisation, Chamber of Princes.

*British India Delegation :—*

The Right Hon. Srinivasa Sastri, Madras.  
 Sir C. P. Ramaswami Aiyar, Madras.  
 Diwan Bahadur Ramaswami Mudaliyar, Madras.  
 Mr. Jayakar, Bombay.  
 Mr. M. A. Jinnah, Bombay.  
 Sir Tej Bahadur Sapru, United Provinces.  
 Mr. T. F. Gavin Jones, United Provinces.  
 Sir Muhammad Shafi, Punjab.  
 Sardar Sahib Ujjal Singh, Punjab.  
 Sir Sayed Sultan Ahmed, Bihar and Orissa.

In addition, Sir B. N. Mitra attended most of the meetings of the sub-Committee and gave it the benefit of his advice and assistance.

2. It must be clearly understood that although agreement has been reached by a majority of the sub-Committee on many important matters, such agreement is only provisional, and every member followed the example of Lord Reading, who said that the understanding had been from the outset that it would be open to all members, when they came to consider the complete proposals for the Federal constitution, to modify or change any provisional assent they might have hitherto given. Every member of the sub-Committee reserves to himself the right of modifying his opinion before the final picture is completed. This is the attitude of British and Indian members alike. Over and above that, upon the basic assumption set out in paragraph 8, Lord Peel and Sir Samuel Hoare, with the information at their disposal, and with so many questions still undecided, are unconvinced that the kind of Executive envisaged in this Report can be successfully adapted to the special conditions of an All-India Federation. They, therefore, desire to see further explored methods for increasing Indian control over the Federal Government that are better suited to All-India needs than those founded upon British precedents. Apart from this Lord Peel and Sir Samuel Hoare are not satisfied that the safeguards recommended for securing Imperial obligations will prove effective, and, in particular, they fear that the financial proposals outlined in paragraphs 18 to 22 inclusive will disturb the confidence of the commercial classes and impair the stability of Indian credit. They wish, however, to place on record their appreciation of the progress that has been made in the elucidation of a contentious and difficult problem, and their readiness to co-operate with sympathetic and unprejudiced minds in its further investigation.

Upon the question of finance, Indian opinion was that even the safeguards set out in the Report went too far, especially those giving special powers to the Governor-General.

3. The vexed Hindu-Muslim question was referred to by Sir Muhammad Shafi on behalf of the Muslim Delegation, and he made it clear that as far as he was concerned he could not consent finally to frame any constitution unless the Hindu-Muslim question was settled. To this view Mr. Jinnah gave his adherence, on the ground that no constitution would work unless it embodied provisions which gave a sense of security to the Muslims and other minorities. He further objected to some details of the Report. Other Delegates, again, stated that their final opinion upon details was not yet formed, and that they desired, before they came to a conclusion, to ascertain public opinion upon such details, both in India and in England.

4. The Indian States do not desire either to discuss or vote upon questions which concern British India alone, and are of opinion that these questions should be definitely excluded. Nor do the

Indian States contemplate that any question of paramountcy will come at any time within the purview of the Federal Government.

The sub-Committee publish the Report subject to these reservations.

5. In their interim Report of 12th December, the sub-Committee indicated their view of the component elements of the Federation, which is contemplated as the future polity for India, and recommended that these elements should be represented in both Chambers of a bicameral Federal Legislature. They also put forward a provisional list (which is reproduced in the Appendices referred to in paragraph 37 of this Report) of the subjects upon which this Legislature should be empowered to pass laws having application throughout all units comprised in the Federation. In a later part of the present Report it will be the duty of the sub-Committee to supplement the provisional recommendations thus made with regard to the competence of the Federal Legislature. There are some matters which, although the Federal Government and Legislature will not at present have jurisdiction in respect of them in the Indian States, will none the less require co-ordination in the areas comprised by the British Indian units of the Federation. These subjects also are indicated in the Appendices referred to in paragraph 37 of this Report. The sub-Committee desire in this connection to emphasise once more the conviction, to which they gave expression in paragraph 12 of their previous Report, that it is the Federal Legislature itself which should perform this co-ordinating function. Their reasons for this view are in part the desire to avoid the inevitable complexities which would arise from setting up a separate authority to deal with subjects not completely federalised, but an even more important reason is that it is, in the sub-Committee's opinion, essential to the development of the Federal idea that the new constitution should contain within itself facilities for its own development, and that nothing should be done in designing the structure embodying it which would be calculated to hamper the natural evolution of a Greater India.

The further Heads which were referred to the sub-Committee and are now under discussion are :—

(4) *The number of members composing each Chamber of the Federal Legislature, and their distribution among the federating units ;*

(5) *The method whereby representatives from British India and from the Indian States are to be chosen ; and*

(6) *The constitution, character, powers and responsibilities of the Federal Executive.*

These three Heads the Sub-Committee now proceed to discuss.

6. The sub-Committee do not, of course, claim to have evolved in all its details a complete plan for the Federal constitution. They consider that the best service they can render to the Conference is to state certain general principles and record conclusions on certain points with regard to which there appeared to be general or substantial agreement, and then to indicate the lines which further detailed examination on the subject ought, in their view, to follow. Many points have necessarily been left open which will have to be settled later after public opinion both in India and in England has had an opportunity of expressing itself upon them, in order that the completed constitution may be based on the largest measure of public approval in both countries.

### THE EXECUTIVE.

7. The sub-Committee consider that it will be convenient to deal, in the first instance, with the last of the three Heads, namely :

*Head (6). The composition, character, powers and responsibility of the Federal Executive ;* since, as was more than once pointed out in the course of their deliberations, the view taken upon these matters may materially affect decisions upon the structure of the Legislature, the nature of its functions and the methods adopted for enabling these functions to be performed.

8. *Responsibility of the Executive.*—The Report which follows proceeds on the basic assumption that the constitution will recognise the principle that, subject to certain special provisions more particularly specified hereafter, the responsibility for the Federal Government of India will in future rest upon Indians themselves.

9. *Method of providing for this.*—In the opinion of the sub-Committee the proper method of giving effect to this principle is, following the precedent of all the Dominion constitutions,\* to provide that executive power and authority shall vest in the Crown, or in the Governor-General as representing the Crown, and that there shall be a Council of Ministers appointed by the Governor-General and holding office at his pleasure to aid and advise him. The Governor-General's Instrument of Instructions will then direct him to appoint as his Ministers those persons who command the confidence of the Legislature, and the Governor-General, in complying with this direction, will, of course, follow the convention firmly established in constitutional practice throughout the British Commonwealth of inviting one Minister to form a Government and requesting him to submit a list of his proposed colleagues

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\* e.g. Ss. 9 to 11 of the British North America Act, 1867 ;  
Ss. 8 and 9 of the Union of South Africa Act, 1908 ;  
Ss. 61 and 62 of the Commonwealth of Australia Constitution, 1900.

10. *Definition of Responsibility*.—The Governor-General, having thus chosen as his Ministers persons who possess the confidence of the Legislature, it follows that they will retain office only so long as they retain that confidence. This is what the sub-Committee understand by the responsibility of Government to Legislature, in the sense in which that expression is used throughout the British Commonwealth. The expression also implies in their view that the ministry are responsible collectively and not as individuals, and that they stand or fall together.

11. *Safeguards*.—It is, however, admitted that this broad statement of the principle of responsible government at the Centre, which will be the ultimate achievement of the constitution now to be framed, requires some qualification. There was general agreement in the sub-Committee that the assumption by India of all the powers and responsibility which have hitherto rested on Parliament cannot be made at one step and that, during a period of transition—

(i) The Governor-General shall be responsible for Defence and External Relations (including relations with the Indian States outside the federal sphere) and that

(ii) in certain situations, hereafter specified, which may arise outside the sphere of those subjects, the Governor-General must be at liberty to act on his own responsibility, and must be given the powers necessary to implement his decisions.

12. *Governor-General's advisers on reserved subjects*.—It was generally agreed that the presence of a person occupying the position of a Minister would be necessary to express the views of the Governor-General on Defence matters in the Legislature, since these will impinge upon strictly federal matters; the same is true of External Relations but there was not an equal measure of agreement with regard to the appointment of a person to represent the Viceroy in this latter subject. It is clear, however, that the Governor-General must be at liberty to select as his representatives in the reserved sphere any persons whom he may himself choose as best fitted for the purpose, and that on appointment they would, if holding Ministerial portfolios, acquire the right like other Ministers of audience in either Chamber of the Legislature. The suggestion was pressed that any persons so appointed should be regarded as ordinary members of the Council of Ministers, notwithstanding that they would be responsible to the Governor-General and not to the Legislature, and that they should be regarded as liable to dismissal (though they would remain eligible for re-appointment by the Governor-General) with the rest of their colleagues. It is difficult, however, to see how this position could be reconciled with the principle of the collective responsibility of Ministers, and the sub-Committee find themselves unable to come to any definite



conclusions on the matter, though they are of opinion that it merits much more careful examination than they have, in the time at their disposal, been able to give to it.

13. *Position of the Governor-General in relation to his Cabinet.*—With this subject is to some degree involved the question of whether the Governor-General should himself preside over the meetings of his Ministers. In the view of the sub-Committee no hard and fast rule can be laid down. It is clear that, especially in the transition period, occasions may often arise in which his presence would be desirable, and indeed, in certain contingencies, necessary. In these circumstances, it appears to the sub-Committee that the better course would be to provide in his Instructions that he shall preside when he thinks it desirable to do so, leaving the matter to his own discretion and good sense. It is, however, essential that the Governor-General shall be kept at all times fully informed of the state of public affairs and have the right to call for any papers or information which are at his Ministers' disposal.

14. *Governor-General's powers in relation to reserved subjects.*—It follows from the fact that the Governor-General will be himself responsible for the administration of the reserved subjects described above, that he should not be dependent for the supply required for them upon the assent of the Legislature, and that the annual supply for their service should be treated, along with other matters to be presently specified, in a manner analogous to the Consolidated Fund Charges in the United Kingdom. The budget allotment would be settled upon a contract basis for a term of years. It would further be necessary to empower the Governor-General in the last resort to take such steps as may be necessary to ensure that the funds required for the reserved subjects are forthcoming, and also to secure emergency supply for these subjects in excess of the contract budget (e.g., in connection with a sudden outbreak of hostilities on the Frontier). It follows that he should be empowered to secure the enactment of such legislative measures as may be essential for the discharge of his responsibility for these subjects.

15. The sub-Committee anticipate that in the event of its becoming necessary to use these powers the Governor-General would not ordinarily do so without consulting his Ministers, even though the responsibility for any action taken will be his and not theirs.

16. *Governor-General's special powers.*—With regard to subjects in the administration of which the Governor-General would normally act on the advice of his Ministers, it was generally agreed that arrangements must be made whereby in the last resort the peace and tranquillity of any part of the country must be secured, serious prejudice to the interests of any section of the population must be avoided, and members of the Public Services must be secured in any

rights guaranteed to them by the constitution. It was further agreed that for these purposes the Governor-General must be empowered to act in responsibility to Parliament and to implement his decisions if occasion so demands by requiring appropriation of revenue to be made, or by legislative enactment.

17. *Use of the Governor-General's special powers.*—Stress was laid in some quarters of the sub-Committee on the necessity of so defining the use of these powers that they should not be brought into play, in derogation of the responsibility of Ministers, for the purpose of day-to-day administration. It is obvious that the Governor-General would consider his relations with his Ministers and the Legislature before making use of these powers. He will have every inducement to stay his hand as long as possible and to be slow to use his own powers in such a way as to enable his Ministers to cast upon him a responsibility which is properly theirs.

18. *Finance. Special provisions.*—In the sphere of Finance, the sub-Committee regard it as a fundamental condition of the success of the new constitution that no room should be left for doubts as to the ability of India to maintain her financial stability and credit, both at home and abroad. It would therefore be necessary to reserve to the Governor-General in regard to budgetary arrangements and borrowing such essential powers as would enable him to intervene if methods were being pursued which would, in his opinion, seriously prejudice the credit of India in the money markets of the world. The sub-Committee recommend, with a view to ensuring confidence in the management of Indian credit and currency, that efforts should be made to establish on sure foundations and free from any political influence, as early as may be found possible, a Reserve Bank, which will be entrusted with the management of the currency and exchange. With the same object again, provision should be made requiring the Governor-General's previous sanction to the introduction of a Bill to amend the Paper Currency or Coinage Acts on the lines of Section 67 of the Government of India Act. They are further agreed that the service of loans, with adequate provision for redemption, by Sinking Funds or otherwise, and the salaries and pensions of persons appointed on guarantees given by the Secretary of State, should be secured, along with the supply required for the Reserved Departments, as Consolidated Fund Charges.

19. With these limitations the sub-Committee do not contemplate any differentiation between the position of the Finance Minister and that of any other Minister responsible to the Legislature, and in regard to taxation, fiscal policy and expenditure on objects other than those under the Governor-General's control, he would be responsible only to the Legislature. In this connection the sub-Committee take note of the proposal that a Statutory Railway Authority should be established, and are of opinion that this should be done, if after expert examination this course seems desirable.

20. The sub-Committee recognise that it may be difficult in existing conditions to set up a Reserve Bank of sufficient strength and equipped with the necessary gold and sterling reserves immediately, and that, therefore, until this has been done some special provisions will be found necessary to secure to the Governor-General adequate control over monetary policy and currency.

21. *Governor-General's ordinary powers.*—The sub-Committee assume that in addition to the special powers indicated above the Governor-General will continue to have, as at present, the right of refusing his assent to legislative measures, and of returning a Bill for reconsideration, and, subject to any Instructions issued to the Governor-General, that the existing powers of reservation and disallowance will remain.

22. *Bills affecting religion and Commercial discrimination.*—The question whether Bills relating to such matters as the religion or religious rites and usages of any class of the community should require the Governor-General's previous sanction to introduction will require consideration, as will also the question of discrimination between different sections of the community in matters of trade and commerce. There was general agreement that in these matters the principle of equality of treatment ought to be established, and various methods were suggested for the purpose. The sub-Committee content themselves, however, with saying that it is one which should be further examined and discussed in consultation with the various interests concerned.

23. *Breakdown of Constitution.*—In the event of a situation unhappily arising in which persistent and concerted action has succeeded in making the constitution unworkable, adequate powers will have to be vested in the Governor-General for the purpose of enabling the King's Government to be carried on.

## THE LEGISLATURE.

### STRUCTURE AND COMPOSITION.

24. Such being their views as to the character and responsibility of the Executive, the sub-Committee are now in a position to consider in relation to these views—

(4) *the number of members composing each Chamber of the Federal Legislature; and their distribution among the federating units: and*

(5) *the method whereby the representatives from British India and from the Indian States are to be chosen.*

25. *General Principles.*—The general aim of Federal constitutions has been to provide one legislative chamber which represents primarily all the federating units as such, often on a basis of equal

representation for each unit, and a lower chamber which represents, primarily, the population of the whole federal area : and in applying this plan, constitution-makers have commonly provided that the representatives of the federating units in the distinctively federal chamber shall be chosen by the Governments or Legislatures of those units, while the representatives of the population of the federal area shall be returned by some more popular form of election : it has commonly been provided further that the distinctively federal chamber should be the smaller of the two. But India's own practical needs and conditions must be the governing factors, and no constitution, however theoretically perfect, and however closely modelled upon precedents adopted elsewhere, is likely to survive the tests of experience unless it conforms to the needs and genius of the country which adopts it, and unless it is capable of adaptation and modification as the character of these needs is proved in the working. To meet these needs the federal organisation must be conceived not as a rivalry of conflicting elements, but as a partnership for the devising and efficient application by common consent of policies required in the common interest. For such a partnership the stability of the Federal Government is of the first importance.

26. *The Upper Chamber.*—The discussion which took place in the sub-Committee on Heads 4 and 5 proceeded without any prior decision upon the all-important question of the relations between, and the respective powers of, the two chambers ; and it may well be that some of the opinions now provisionally expressed will require revision. But proceeding simply on the basis that there will be two Chambers, the Upper smaller in size than the Lower, and without any decision as to the relations of one to the other, the balance of opinion was to the effect that the Upper Chamber—which might be described as the Senate—of the Federal Legislature should be a small body, of from 100 to 150 members, whose qualifications should be such as will ensure that it is a body of weight, experience and character. It was thought that this object might be secured by prescribing for the candidature of the British India members qualifications similar to those now in force for the Council of State : and the sub-Committee have no doubt that the Rulers of the Indian States, in selecting their representatives, will ensure that they are persons of similar standing.

*Method of election to Upper Chamber.*—The sub-Committee are almost unanimously of opinion that the British Indian members of the Senate should be elected by the provincial legislatures, by the single transferable vote.

27. *Life of the Upper Chamber.*—The Senate itself should not be subject to dissolution like the Lower House, but a fixed proportion of its members would retire and be replaced (or re-elected as the case may be) at regular periods.

28. *Distribution of Seats in Upper Chamber.*—As regards the distribution of seats in the Senate between the States and British India respectively, the sub-Committee have to report a difference of view. The States representatives on the sub-Committee pressed strongly for equality of distribution as between the States and British India. The British Indian representatives, on the other hand, were disposed to claim, on such grounds as area and population, a preponderance of seats for British India; but though opinions differed as to the precise degree of "weightage" to be conceded to the States, the sub-Committee are unanimous that some "weightage" must be given, and that a distribution of seats as between the States and British India on a strict population ratio would neither be defensible in theory nor desirable in practice. The sub-Committee trust that if the Conference fails to reach unanimity on this point, a satisfactory solution may yet be found as the result of discussion and accommodation hereafter.

29. *Distribution of Seats in Upper Chamber between Provinces.*—Granted a solution of this question, it has still to be considered how the seats available to the States and British India respectively are to be distributed amongst the individual units of each class. So far as the States are concerned, this must clearly be a matter for agreement by their Rulers in consultation between themselves and, if necessary, with the Viceroy. Difficult problems of grouping are involved, but these matters are outside the scope of the Conference. As regards the Provinces, precedents of other Federal constitutions could no doubt be cited in favour of complete equality as between Province and Province, and there was some opinion in the sub-Committee in favour of this plan. But while the opportunity should no doubt be taken for departing from the traditional apportionment as between Province and Province which has survived in the Chambers of the existing Indian Legislature, the sub-Committee are doubtful whether an arrangement which gave, for instance, to Assam with its  $7\frac{1}{2}$  millions of inhabitants, and Bengal with its  $46\frac{1}{2}$  millions, an equal voice in the counsels of the Nation, would commend itself to general public opinion. On the whole the sub-Committee would be disposed to regard a distribution as between Province and Province on a population ratio as the most convenient and satisfactory arrangement.

30. *The Lower Chamber—Size.*—The trend of opinion as to the size of the Lower Chamber was that it should consist of approximately 300 members, thus providing roughly one representative for each million of the inhabitants of India. On the other hand the view was strongly expressed that the requirements of efficiency would not be met if the Chamber were to exceed 200 as a maximum. The sub-Committee as a whole recognise the force of these considerations, and also of the desire for a Chamber of sufficient size to afford a reasonable approach to adequate representation of the population.

But since no real approach to this latter ideal could be secured without enlarging the Legislature to an undue extent, the sub-Committee think that having regard to the great importance which must be attached to efficiency of working, 250 should be adopted as the number of seats to be provided in the Lower Chamber.

31. *Distribution of Seats in the Lower Chamber.*—In the Lower Chamber the Indian States Delegation do not claim, as they do in the Senate, equality of representation with British India, but here also they claim some greater representation than they would obtain on a strict population ratio. The British Indian representatives on the sub-Committee were not, however, disposed to contemplate a distribution as between themselves and the States in this Chamber on any other basis than that of population. On this basis approximately 76 per cent. of the seats would be assigned to British India and 24 per cent. to the States. But while the latter view must be recorded as that of the majority of the sub-Committee, a substantial minority would regard so great a disparity between the two classes of units as inconsistent with and inimical to the ideal which the Conference has set before itself, and the minority wish strongly to urge upon their colleagues the desirability of subordinating theory to expediency in the interests of goodwill. No Conference can hope to bear fruit unless its members approach their task in a spirit of accommodation, and accommodation in this matter is, they are confident, not beyond the reach of Indian statesmanship.

The question of the respective powers of the two Chambers, which has been touched upon in para. 26 has also an obvious bearing on the matter.

32. *Method of election to Lower Chamber.*—Here again the sub-Committee regret that they are unable to record a unanimous view. The British Indian representatives almost without exception favour direct election by constituencies arranged on a plan generally similar to that of the "general constituencies" for the existing Legislative Assembly. They maintain that this method of election has not proved in practice inconvenient or unworkable, that such inconvenience as it has hitherto presented will be diminished with the increase which they contemplate in the number of seats available and the consequent decrease in the size of constituencies, that ten years' experience has firmly established it in popular favour, and that resort to any method of indirect election would not be accepted by Indian public opinion. Other members of the sub-Committee are unable to contemplate as a fitting repository of power and responsibility a Chamber whose members would have so exiguous a link between themselves and the population of the areas they would purport to represent as would be provided by any system of direct election. Assuming for the sake of argument that as many as 200 seats were available for British Indian representatives, they note that the

average size of a constituency would be some 4,000 square miles, and that if due allowance is made for the comparatively small areas of the urban constituencies, the general average would be even higher. They note that the Franchise sub-Committee have refrained from making any recommendation on the franchise for the Federal Legislature: consequently they cannot bring themselves to regard as popular representation according to the accepted canons of parliamentary government a system which provides for the "election" of members by an average number of some 5,000 electors scattered over an average area of some 4,000 square miles, and this difficulty would not be removed by an increase in the average number of electors by a lowering of the franchise; for an increase in the number of the voters in such vast constituencies would merely increase the difficulties of establishing contact between the candidate and the voter. But apart from these practical difficulties, some members of the sub-Committee feel strongly that, in the geographical conditions of India, any system of direct election would seriously prejudice the success of the Federal ideal. In their view it is of the utmost importance that the tie between the Centre and the units should be as closely knit as possible; and that it should be a tie of natural affinity of outlook and interest and capable of counteracting the centrifugal tendencies which, but for such a counterpoise, will be liable to develop in the Provinces from the increased autonomy now in prospect. In the opinion of those who hold this view the only satisfactory basis for representation in either Chamber of the Federal Legislature is election by the Legislatures of the Provinces. This need not involve the mere reproduction of the Lower Chamber on a smaller scale, if, as is suggested in this Report, special qualifications are prescribed for membership of the Senate. But if this plan is not adopted, and the view prevails that the members of the Assembly should be chosen to represent the populations of the units rather than their Governments or Legislatures, those members of the sub-Committee who are opposed to direct election desire to point out that it is not a necessary consequence of a decision in this sense that the populations of the areas should elect their representatives directly. Various devices are known to constitution-makers as alternatives to direct election, and they would strongly urge that every possible alternative should be explored before a final decision is taken.

33. *Life of the Lower Chamber.*—The sub-Committee are of opinion that the term of the Lower Chamber should be five years, unless sooner dissolved by the Governor-General.

34. *Representation of special interests and of the Crown in Federal Legislature.*—Two further points remain to be mentioned in regard to the composition of the Federal Legislature. Opinion was unanimous in the sub-Committee that, subject to any report of the Minorities sub-Committee, provision should be made for the representation, possibly in both Chambers, and certainly in the Lower

Chamber, of certain special interests, namely, the Depressed Classes, Indian Christians, Europeans, Anglo-Indians, Landlords, Commerce (European and Indian) and Labour. Secondly, in their interim Report, the sub-Committee expressed the view that so long as there are any reserved subjects the Crown should be represented in both Chambers. While the sub-Committee unanimously maintain that recommendation, further discussion has disclosed a difference of view as to the functions of the Crown nominees, and as to their numbers. Some members of the sub-Committee consider that their attendance should be solely for the purpose of explaining the Governor-General's policy on his behalf, and that they should not exercise the right to vote in divisions. Others are of opinion that these persons should be full members of the Legislature. Some members of the sub-Committee consider again that the only nominees of the Crown should be the principal advisers of the Governor-General in the administration of the reserved subjects, while others think that the Governor-General should be empowered to nominate a specified number of persons, not exceeding, say, 10, to each Chamber.

35. *Means of securing stability for the Executive.*—The relation of the two Chambers to one another has been touched on above, but a particular aspect of the relation of the Chambers to the Executive was a subject of discussion in the sub-Committee and should be mentioned here. For the purpose of securing greater stability to the Executive the suggestion was made, and found a large measure of support, that Ministers should not be compelled to resign save in the event of a vote of no confidence passed by a majority of at least two-thirds of the two Chambers sitting together. Ministers against whom less than two-thirds of the votes have been cast on a motion of no confidence would not, however, for that reason alone continue to enjoy to any greater extent than before the confidence of the Legislature who would be still able in other ways to make effective their want of confidence. But the sub-Committee are of opinion that some means should be devised whereby, in the interests of stability, an adverse vote should not on every occasion necessarily involve the resignation of the Ministry, and that the subject should be further explored.

36. *Position of States' representatives in relation to matters affecting British India only.*—Since the functions of the Federal Government will extend beyond the range of federal subjects and will embrace those matters which are strictly the concern of British India alone, it has to be decided whether the States' representatives in the Federal Legislature should take any part in the debates and decisions on this latter class of matters with which *ex hypothesi* they will not be directly concerned. There is much to be said in favour of treating all members of the Federal Legislature as entitled and empowered to contribute their share towards the decision of all matters within



the range of the Legislature's duties. It would be clearly impossible, so far as the Executive is concerned (which will, like the Legislature, be composed of representatives of both States and British India) to differentiate the functions of Ministers in such a way as to confine the responsibilities of States' representatives to Federal matters; no workable scheme could be devised with this object which would not cut at the root of the principle of collective responsibility in the Cabinet. For this reason the States desire—with the general assent of the sub-Committee—that their representatives in the Legislature should play their part equally with their British Indian colleagues in expressing the decision of the Legislature on any question which involves the existence of the Ministry, even if the matter which has given rise to the question of confidence is one which primarily affects British India only. At the same time Their Highnesses would prefer that the States' representatives should take no part in the decision of matters which, being outside the range of federal subjects, have no direct interest to the States. It would, no doubt, be possible so to arrange business in the Legislature that Bills or Budget demands of this character should be dealt with either exclusively or in the Committee stage by a Committee (analogous to the Scottish Committee of the House of Commons) consisting of the British Indian representatives alone. Some members of the sub-Committee think, however, that it would be unfortunate to initiate such a system of differentiation, and that, whatever conventions might be observed, it would be undesirable in terms to deprive the Legislature of the contribution which any of its members might be able to make on any matter within the Legislature's purview; and they think that it would be found in practice difficult, if not impossible, to classify a given matter as being one in which the States have no interest or concern, direct or indirect. The sub-Committee recommend, however, that the matter be further explored.

*37. Competence of the Federal Legislature.*—With reference to paragraph 5 of this Report, the reports of two sub-Committees are appended to this Report in which recommendations have been made as to the classification as federal, central or provincial, of all the subjects which are at present within the competence of the Indian Legislature. The sub-Committee endorse generally these recommendations, though they recognise that the further expert examination which the matter will undoubtedly require may show the necessity of some modification and adjustment. It will be observed that, apart from the specific recommendations made with regard to the treatment of the several items in the list, there is a general recommendation that legislative co-ordination required in respect of certain provincial subjects, or aspects of provincial subjects, should no longer be secured by the process of submitting Provincial Bills on these subjects for the previous sanction of the Governor-General, but firstly by scheduling certain existing Acts

(and the same process would, of course, be applied to certain Acts of the Federal Legislature in the future) as being incapable of amendment in their application to a Province by the Provincial Legislature without the previous sanction of the Governor-General and, secondly, by granting concurrent powers of legislation to the Federal Legislature on certain aspects of specified provincial subjects. It would be necessary to include a provision that any Provincial Act relating to these subjects which is repugnant to a Federal Act is, to the extent of the repugnancy, to be void.

38. *Residual powers.*—The sub-Committee draw attention to the fact that, however carefully the lists of Federal, Central and Provincial subjects are drawn up, there is bound to be a residue of subjects not included in any of them. Whether these residuary powers of legislation are to rest with the Federal Government or with the Provinces is a matter on which the sub-Committee have come to no conclusion. Its great importance is, however, manifest, and it will need most careful consideration at a later stage.

39. *Control by the Federal Government over Provincial Governments.*—This topic leads naturally to the question of the powers of control to be exercised by the Federal Executive over the Provincial Executive and their nature and extent. It goes without saying that within the range of Federal subjects, the Federal Executive must have authority to ensure that Federal Acts are duly executed in the Provinces; it also goes without saying that within States' territory there can be no question of the exercise of any such authority, direct or indirect, outside the strict range of Federal subjects. But it seems equally evident that in matters affecting more than one Province of British India, even where they relate to subjects classified as Provincial, there must be some authority capable of resolving disputes and of co-ordinating policy when uniformity of policy is in the interests of India as a whole, and the sub-Committee consider that the constitution should recognise this authority as vesting in the Federal Government and should make suitable provision for its exercise.

Signed on behalf of the sub-Committee,

SANKEY,

*Chairman.*

ST. JAMES'S PALACE,

LONDON.

13th January, 1931.

APPENDIX I TO SECOND REPORT OF SUB-COMMITTEE No. I.  
CLASSIFICATION OF CENTRAL AND PROVINCIAL SUBJECTS.

REPORT OF JOINT COMMITTEE OF SUB-COMMITTEES NOS. I AND II.

The Joint Committee\* of the Federal Structure sub-Committee and the Provincial Constitutional sub-Committee was appointed to consider in detail the lists of subjects circulated as R.T.C. (F. (S)) 3, Categories A, B, C and D only, and to suggest a provisional classification into three categories:—

- (a) exclusively Central ;
- (b) exclusively Provincial ;
- (c) subjects in which the Centre and the Provinces are both interested and which might therefore be subject to central co-ordination, and to make any suggestions that they think fit as to the method to be adopted for securing this co-ordination.

We have considered the various subjects and make the recommendations shown in the right-hand column of the attached Tabular Statement. The enumeration is that of the present list of Central and Provincial subjects, Devolution Rules, Schedule I.

(Signed) ZETLAND,  
Chairman.

6th January, 1931.

*Proposed Classification of the Indian Central Subjects as detailed in  
Devolution Rules, Schedule I, Part I.*

(Enumeration is that of the present list of the Indian Central Subjects.)

A: Those which are proposed to be wholly or partly federalised.

B: Those no portion of which is proposed to be federalised.

**A: Central subjects which are proposed to be wholly or partly federalised.**

The description of subjects in the Devolution Rules.	The recommendations of the Federal Structure sub-Committee regarding the extent to which they should be federalised.	The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding the classification of the residue into three Categories. (a) Exclusively Central. (b) Exclusively Provincial. (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination.
5. Communications to the extent described under the following heads, namely: (a) Railways and extra municipal tramways in so far as they are not classified as provincial subjects.	Railways (including railways to be constructed or acquired in future). <i>Federal</i> for policy and legislation. Administration to be Federal to the extent of powers now exercised by the Railway Board.	Present position should be maintained.

\* For membership, see list at end of tabular statement.

5—cont.

(b) Aircraft and all matters connected therewith.	Federal ... ..	—
(c) Inland waterways to an extent to be declared by rule made by G.G. in C. or by or under legislation by the Indian Legislature.	Federal for policy and legislation in respect of inland waterways affecting more than one unit.	The Committee is informed that as the administration is provincial there is no residue left for classification. But for steamships <i>see</i> list C, item 31.
6. Shipping and navigation (including shipping and navigation of inland waterways in so far as declared to be a central subject under entry 5 (c).	Federal for policy and legislation.	The present position should be maintained.
7. Lighthouses (including their approaches), beacons, lightships and buoys.	Federal ... ..	—
8. Port Quarantine and Marine Hospitals.	Federal as far as international requirements are concerned.	There are no marine hospitals. The only residue is inter-provincial shipping which should be a central subject
9. Ports declared to be major ports by rule made by the G.G. in C. or by or under legislation by the Indian Legislature.	Such ports to be Federal as are declared to be major ports by rule made by Federal Government or by or under legislation by the Federal Legislature subject in the case of Indian States to such extent as authority may be delegated by the States under a convention	There is no part of the central subject left which is not federalised.
10. Posts, telegraphs, telephones including wireless installations.	Posts, telegraphs, <i>trunk</i> telephones and wireless installations to be Federal; but with such qualifications as may be necessary for the purposes of adjustment with the States in matters of detail.	The Committee thinks that for technical reasons the local telephones in British India cannot be made a provincial subject. Sir B. N. Mitra suggests that the entry in the second column should be amended as follows:— “ Posts, telegraphs, telephones—excepting local ( <i>i.e.</i> , non-trunk) telephones in Indian States and wireless installations.”
11. Customs ... ..	<i>Maritime Customs</i> : Federal subject to special adjustment with maritime States having regard to their treaties, engagements and agreements. <i>Customs on external Frontier of Federal India</i> : Federal on the lines of maritime customs subject to the special case of Kashmir.	—

11 Customs— <i>cont.</i> Income Tax ... ..	—	Should be Central as at present. Whether any surcharge should be imposed by the Provinces and whether any portion of the revenue should go to the Provinces are matters beyond the terms of reference to the Committee.
Salt ... .. Other sources of all-India Revenue.	Federal ... .. —	— As regards these (including excise on motor spirit and kerosine) the position should remain as at present.
12. Currency and Coinage	Federal, subject to adjustment with the States concerned of such rights as are not already conceded by them.	—
13. Public debt of India	Public debt of Federal India (power to raise Federal Loans) should be Federal.	The public debt of India on the date of the inauguration of the Federal constitution should be a central subject.
14. Savings Banks ...	Federal for policy and legislation regarding Post Office Savings Banks.	Since it was not clear to what Savings Banks, other than Post Office Savings Banks, this entry may refer, we have no recommendation to make.
15. The Indian Audit Department.	Federal audit to be Federal.	Provincial accounts should be a provincial subject. As regards audit the general sense of the Committee was that it should be a central subject but a substantial minority thought that the audit of provincial accounts should be a provincial subject.
17. Commerce (including banking and insurance).	Federal for policy and legislation.	Should be Central to the extent to which it is at present.
18. Trading Companies and other associations.	Do.	Do.
20. Development of industries, in cases where such development by central authority is declared by order of the Governor General in Council made after consultation with the local Government or local Governments concerned expedient in the public interests.	Development of Industries to be a federal Subject in cases where such development by Federal Authority is declared by order of the Federal Government made after negotiation with and consent of the federating units.	Development of industries should remain Provincial to the extent to which it is not federalised.

21. Control of cultivation and manufacture of opium. Sale of opium for export.	Federal for policy and legislation.	The position should be maintained as at present.
22. Stores and stationery both imported and indigenous required for Imperial Departments.	Stores and stationery both imported and indigenous required for Federal Departments to be Federal.	As regards non-Federal Central Departments the subject should be under the control of the Centre.
23. Control of petroleum and explosives.	Federal for policy and legislation.	The position should be maintained as at present.
24. Geological Survey of India.	Federal ... ..	—
26. Botanical Survey of India.	Federal ... ..	—
27. Inventions and designs.	Federal for policy and legislation.	The position should be maintained as at present.
28. Copyright.	Do.	Do.
29. Emigration from and immigration into British India.	Emigration from and immigration into India—Federal.	—
Inter-provincial migration.	—	The Committee suggests that the question of making migration between Federal units a Federal subject should be considered.
31. Central police organisation.	Federal police organisation to be Federal.	Central to the extent it is at present.
32. Control of arms and ammunition.	Traffic in arms and ammunition to be Federal for policy and legislation.	The position as regards control of arms and ammunition as apart from traffic in them should be maintained as at present. The provincial Governments should, however, have power to grant exemptions from the requirements of the Arms Act in respect of provincial areas.
33. Central agencies and institutions for research (including observatories) and for professional or technical training or promotion of special studies.	Federal as regards <i>future</i> agencies and institutions.	As regards existing agencies and institutions the subject should continue to be Central as at present—if it is not federalised.
35. Survey of India ... ..	Federal. ... ..	—
38. Meteorology ... ..	Do. ... ..	—
39. Census ... ..	Federal for policy and legislation—the Statistics reserving administration.	Central to the extent it is at present.
Statistics ... ..	All-India Statistics—Federal.	—
40. All-India Services ... ..	Federal Services should be Federal	Central Services should be a central subject. As regards All-India services, the question is for the consideration of the "Services" sub-Committee.

44. Immoveable property in possession of the Governor General in Council.	Immoveable property acquired and maintained at the cost of Federal Government should be Federal.	Immoveable property acquired and maintained at the cost of Central Government should be Central.
45. The Public Services Commission.	Federal for the purpose of Federal Services.	The Public Services Commission for the Central Services should be a central subject.

**B : Central subjects, no portion of which is proposed to be federalised.**

The description of the subjects in the Devolution Rules.	<p>The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding their classification into three categories :</p> <p>(a) Exclusively Central.  (b) Exclusively Provincial.  (c) In which both the Centre and the Provinces are interested and which might be subject to central legislation.</p>
16. Civil Law including laws regarding status, property, civil rights and liabilities and civil procedure.	This question has been considered by a special Legal Committee and we therefore refrain from dealing with it. See Appendix II.
19. Control of production, supply and distribution of any articles in respect of which control by a central authority is declared by rule made by the Governor-General in Council or by or under legislation by the Indian Legislature to be essential in the public interest save to the extent to which in such rule or legislation such control is directed to be exercised by a local Government.	The majority of the Committee considered that the Central Government should not retain the power which this entry gives.
25. Control of Mineral Development in so far as such control is reserved to the Governor-General in Council under rules made or sanctioned by the Secretary of State, and regulation of mines.	The control of mineral development should be entirely a provincial subject but the regulation of mines should remain a central subject to the extent it is at present.
30. Criminal Law including Criminal Procedure.	See No. 16 above.
34. Ecclesiastical administration—including European Cemeteries.	This should be a central rather than a provincial subject. It is, however, to be considered whether it should not be a Crown subject. The present position should be maintained.
36. Survey of India ... ..	Do.
37. Zoological survey ... ..	

42. Territorial changes—other than inter-provincial and declaration of laws in connection therewith.

43. Regulation of ceremonial titles, orders, precedence and civil uniform.

The Committee understands that this has already been decided to be a matter to be dealt with under amendments of the constitution.

The Committee understands that this has already been decided to be a matter more properly falling under the authority of the Crown.

The Joint Committee considers that a new entry should be made making Services in the centrally-administered areas and expenditure incurred therein a central subject.

*Proposed Classification of those of the Provincial subjects in respect of which some control is exercised by the Centre.*

*Devolution Rules, Schedule I, Part II.*

(Enumeration is that of the present list of the Provincial subjects.)

C: Provincial subjects which are subject to legislation by the Indian Legislature.

D: Provincial subjects specially excepted and those in respect of which extra provincial control is exercised.

C: Provincial subjects subject to legislation by the Indian Legislature.

Description of subject in the Devolution Rules.

The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding their classification into three categories:

- (a) Exclusively Central.
- (b) Exclusively Provincial.
- (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination.

*Local Self Government.*

1. As regards:

(a) the power of local authorities to borrow otherwise than from the Provincial Government;

(b) the levying by such authorities of taxation not included in Schedule II of the Scheduled Taxes Rules.

3. *Public Health Sanitation and Vital Statistics.*

As regards infectious and contagious diseases to such extent as may be declared by any Act of the Indian Legislature.

As regards these two matters the Committee thinks that the words "subject to the previous sanction of a central authority to the extent to which such sanction of the Governor-General is now required" should be substituted for the words "subject to legislation by the Indian Legislature."

In respect of the specific matter of infectious and contagious diseases in the sphere of public health, which is now subject to legislation by the Indian Legislature, the majority of the Committee are in favour of co-ordination as against legislative control by the Centre.



5. *Education.*

As regards the definition of the jurisdiction of any University outside the Province in which it is situated.

6. *Public Works—light and feeder Railways and extra municipal tramways in so far as provision for their instruction and management is made by provincial legislation.*

As regards any such railways or tramways which are in physical connection with a main line or are built on the same gauge as an adjacent main line.

7. *Water-supplies, irrigation and canals, drainage and embankment, water storage and water power.*

As regards matters of inter-provincial concern or affecting the relation of a Province with any other territory.

10. *Agriculture.*

In respect of destructive insects and pests and plant diseases to such extent as may be declared by any Act of the Indian Legislature.

11. *Civil Veterinary Department.*

In respect of animal diseases to such extent as may be declared by any Act of the Indian Legislature.

14. *Forests.*

As regards disforestation of reserved forests.

15. *Land Acquisition.*17. *Administration of Justice.*

As regards High Courts, Chief Courts, Courts of Judicial Commissioners and any courts of criminal jurisdiction.

19. *Administrators—General and Official Trustees.*20.—(a) *Non-Judicial Stamps.*(b) *Judicial Stamps.*

As regards amounts of court fees levied in relation to suits and proceedings in the High Courts under their original jurisdiction.

We suggest that the full Committee should consider whether this should not be a Federal subject.

The present position should be maintained.

Do.

As in No. 3 above.

Do.

The Committee thinks that disforestation of reserved forests should be exclusively Provincial. Legislation should be exclusively Provincial; but the right of the Central Government to acquire land for its own purposes should be fully safeguarded.

The present position should be maintained.

The subject should in future be Provincial.

In both cases the present position should be maintained.

21. *Registration of deeds and documents.*  
 22. *Registration of births, deaths and marriages.*

As regards such classes as the Indian Legislature may determine.

26. *Industrial matters.*

As regards

- (a) Factories.
- (b) Settlement of labour disputes.
- (c) Electricity.
- (d) Boilers.
- (g) Welfare of labour, including provident funds, industrial insurance (general, health and accident) and housing.

28. *Adulteration of Food Stuffs and other articles.*

As regards import and export trade only.

29. *Weights and measures.*

As regards Standards ... ..

31. *Inland Waterways including shipping and navigation thereon.*

As regards inland steam vessels only.

33. *Miscellaneous matters.*

(d) *Control of poisons* ... ..

(e) *Control of Motor vehicles* ... ..

As regards licences valid throughout British India.

(f) *Control of dramatic performances and cinematographs.*

As regards sanction of films for exhibition.

34. *Control of newspapers, books and printing presses.*

37. *Criminal Tribes* ... ..

38. *European Vagrancy* ... ..

39. *Prison and Prisoners* (except persons detained under

The Bengal State Prisoners Regulation, 1818.

The Madras State Prisoners Regulation, 1819.

The Bombay Regulation XXV of 1827),

and Reformatories.

In both cases the present position should be maintained.

This should be subject to legislation by the Indian Legislature—

(a) for marriages in the case of such classes as the Indian Legislature may determine.

(b) for births and deaths in the case of Europeans and foreigners.

As regards (a), (b), (c), (d) and (g), there should be a concurrent power of legislation vested in the Provinces and in the Centre. The previous sanction of the Governor-General should not be required in the case of provincial legislation.

The present position should be maintained.

Do.

Do.

Do.

Do.

The subject should be exclusively Provincial.

The present position should be maintained.

The subject should be exclusively Provincial (but with continuance of central legislation as regards State prisoners).

45. *Regulation of medical and other professional qualifications and standards.*

The present position should be maintained. The question of making this subject Federal should be considered.

47. *Control of Services.*

As regards public services within the Province other than All-India Services.

The Committee refrains from making any recommendation as the matter falls within the purview of the "Services" sub-Committee.

The Joint Committee recommends generally with regard to the existing legislation on the above subjects that statutory provision should be made similar to that suggested by the Legal sub-Committee on Civil and Criminal law and procedure, under which certain specified Acts should not be repealed or altered by Provincial Legislatures without the previous sanction of the Governor-General. The Committee assumes that where the Centre and Provinces have concurrent legislative powers, the Central Law would prevail in case of conflict.

D: Provincial subjects specially excepted and those in respect of which extra-provincial control is exercised.

The description of the subject in the Devolution Rules.

The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding their classification into three categories :

- (a) Exclusively Central.
- (b) Exclusively Provincial.
- (c) In which both the Centre and Provinces are interested and which might be subject to central co-ordination.

5. *Education.*

The following two are not provincial subjects:

- (1) The Benares Hindu University. The Aligarh Muslim University and such other Universities as may be declared by the Governor-General in Council to be central subjects.
- (2) Chiefs' colleges and any institution maintained by the Governor-General in Council for the benefit of the members of His Majesty's Forces and of other public servants or of the children of such members or servants.

The Benares and Aligarh Universities should be central subjects, together with such Universities constituted after the inauguration of the new constitution as may be declared by the Central authority to be central subjects.

The question of making chiefs' colleges and institutions for the benefit of members of His Majesty's Forces or their children Federal subjects should be considered; otherwise Central.

# 6. *Public Works.*

Ancient monuments as defined in Section 2 (1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under Section 3 (1) of that Act, are central subjects.

# 8. *Colonisation and disposal of Crown Lands not in possession of the Governor-General in Council.*

The control is exercised by the Secretary of State in Council under Section 30 of the Government of India Act.

# 16. *Excise.*

Control of cultivation, manufacture and sale for export of opium are central subjects.

# 24. *Development of mineral resources which are Government property.*

This power is subject to rules made or sanctioned by the Secretary of State.

# 24A. *Control of production supply and distribution of any articles.*

The extent to which such control is directed to be exercised by a local Government is laid down by

- (a) a rule made by the Governor-General in Council,
- (b) or under legislation by the Indian Legislature.

# 27. *Stores and Stationery.*

In the case of imported stationery the control is subject to such rules as may be prescribed by the Secretary of State in Council.

# 30. *Ports.*

Such ports as may be declared by the Governor-General in Council to be major ports by a rule made by the Governor-General in Council or by or under Indian legislation are not provincial but central subjects.

# 31. *Inland Waterways.*

The Governor-General in Council may declare some to be central subjects.

The position should be maintained as at present.

The Joint Committee considers this subject to be beyond its terms of reference.

The present position should be maintained.

The regulation of development should rest with the Government—Central and Provincial—under whose authority the resources are developed.

See item No. 19 in the list B above.

The Joint Committee sees no necessity for regulation by a superior authority of imports of stationery by provincial Governments.

See item No. 9 in the list A above.

See item No. 5 (b) in the list A above.

32. *Police, including Railway Police.*

In the case of the Railway Police this control is subject to such conditions as regards limits of jurisdiction and Railway contribution to cost of maintenance as the Governor-General in Council may determine.

39. *Prisons and Prisoners.*

Prisoners detained under the Bengal State Prisoners Regulation, 1818, the Madras State Prisoners Regulation, 1819, the Bombay Regulation XXV of 1827, are central subjects.

42. *Libraries and Museums.*

The Imperial Library, the Indian Museum, the Imperial War Museum and the Victoria Memorial, Calcutta, are central subjects.

49. *Borrowing money on the sole credit of the Province.*

This power is subject to the provisions of the local Government Borrowing Rules.

The present position should be maintained.

See item No. 39 in the list C above.

The present position should be maintained. The question of making these institutions Federal should be considered.

The present position should be maintained.

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N.B.—The Joint Committee consisted of the following members:—Lord Zetland, Mr. Sastri, Sir B. N. Mitra, Mr. Mudaliyar, Sir M. Shafi, Sir S. Ahmed, Sardar Ujjal Singh, Mr. Gavin Jones, Dr. Ambedkar, Nawab Sir Ahmad Said Khan, Mr. Joshi, Raja Narendra Nath, Sir A. P. Patro, Sir Chimanlal Setalvad, Mr. Zafrullah Khan.

## APPENDIX II TO SECOND REPORT OF SUB-COMMITTEE

## No. I.

## CIVIL LAW AND CRIMINAL LAW AND PROCEDURE.

## REPORT OF THE LEGAL SUB-COMMITTEE OF SUB-COMMITTEE No. I.

The Legal sub-Committee have considered the possibility of giving Provincial legislatures a plenary power of legislation over the whole field of civil and criminal law and giving the Central legislature power to legislate on those matters only which are necessarily the concern of the Central authority. They find, however, that it would be difficult, if not impossible, to specify or even to indicate in general terms all the matters which should be reserved for the Central legislature, and that, therefore, it will be necessary to give the Central legislature a wide power of legislation. The Committee think also that it is necessary in the interest no less of the Provinces than of British India as a whole that the uniformity in civil and criminal law which now exists should be maintained. At the same time they think that the Provincial legislatures should have a wide power of legislation as regards civil and criminal law for provincial purposes. The sub-Committee think that the objects in view can best be secured by giving the Central legislature a plenary power of legislation on all matters of civil and criminal law and giving Provincial legislatures a concurrent power of legislation except as regards those matters which are necessarily the concern of the Central authority, e.g., laws relating to international obligations, laws for territories not subject to any Provincial legislature and laws affecting any power expressly reserved to the Central authority by any law for the time being in force.

To preserve the uniformity which at present exists the present arrangement should be maintained under which certain important Acts cannot be repealed or altered without the previous sanction of the Governor-General. The Acts are specified in rules made under section 80A (3) (h) of the Government of India Act but the list requires certain alterations and additions.

On all other matters so far as the legislative power of a Provincial legislature is concurrent with that of the Central legislature it should be capable of being exercised without any previous sanction but it should be declared to be subject to legislation by the Central legislature so that in case of a conflict between Central and Provincial legislation the former would prevail. The sub-Committee think that if this plan were adopted Provincial legislatures would have in the field of civil and criminal law a power of legislation which would be sufficient for their needs. To give effect to this plan items 16 and 30 in the Central list should remain as they

are, a complementary entry should be made in the Provincial list and provision should be made somewhere in the Act on the lines of section 80A (3) (h) to secure the uniformity desired.

This uniformity should extend to such matters as those covered by the Acts referred to in the rules made under section 80A (3) (h). The list of the Acts contained in the rules will require further examination and must in any case be brought up to date.

31st December, 1930.

N.B.—The sub-Committee consisted of the following members :—Sir Muhammad Shafi, Sir Tej Bahadur Sapru, Sir C. P. Ramaswami Aiyar, Mr. Jayakar, and Mr. Jinnah, with the assistance of Sir Edward Chamier and Sir Maurice Gwyer.

## Sub-Committee No. II (Provincial Constitution).

REPORT PRESENTED AT THIRD MEETING OF THE COMMITTEE OF THE WHOLE CONFERENCE, HELD ON 16TH DECEMBER, 1930.

1. The following report, subject to adjustment to the complete constitution, is submitted by sub-Committee No. II.

2. The sub-Committee was appointed to consider two heads of the Lord Chancellor's list, namely

(a) The powers of the provincial legislatures.

(b) The constitution, character, powers, and responsibilities of the provincial executives.

3. The sub-Committee met on the 4th, 5th, 8th, 9th and 15th December. The proceedings on the first and second days comprised a general discussion of the problem. On the succeeding days particular issues were separately considered and examined. The Chairman ruled that the size, lifetime, number of chambers of the provincial legislatures, and the question of the official bloc might also be discussed as germane to the sub-Committee's Terms of Reference.

4. *The Abolition of Dyarchy.*—The sub-Committee is agreed that in the Governor's provinces the existing system of dyarchy should be abolished and that all provincial subjects, including the portfolio of law and order, should be administered in responsibility to the provincial legislatures. (See note at end.)

5. *The Composition of the Provincial Executives.*—(a) *Joint Responsibility.*—The sub-Committee recommends that there should be unitary executives; and that the individual Ministers composing the executive should be jointly responsible to the legislature.

(*Raja Narendra Nath awaits the report of the Minorities sub-Committee before agreeing finally to joint responsibility.*)

(b) *The appointment of Ministers.*—The responsibility for appointing Ministers will rest with the Governor. The sub-Committee is of opinion that in the discharge of that function the Governor should ordinarily summon the member possessing the largest following in the legislature, and invite him to select the Ministers and submit their names for approval. The Ministers should ordinarily be drawn from among the elected members of the provincial legislature. In the event of the appointment of a non-elected non-official, such person should be required by statute to secure election to the legislature (and if the legislature be bicameral, to either chamber) within a prescribed period not exceeding six months, but subject to this limit he may be



nominated by the Governor to be a member of the legislature. The sub-Committee is of opinion that there should be no discretion to permit the appointment of an official to the Cabinet.

*(The Marquess of Zetland and Sir Robert Hamilton dissent from the last two sentences.)*

(c) *Group or communal representation in the Cabinet.*—The sub-Committee considers it a matter of practical importance to the success of the new constitutions that important minority interests should be adequately recognised in the formation of the provincial executives. An obligation to endeavour to secure such representation should be expressed in the Instrument of Instructions to the Governor.

*(Mr. Chintamani dissents from the last sentence.)*

6. *Powers of the Governor.*—(a) *In regard to legislature.*—

(1) The Governor shall have power to dissolve the legislature; he may assent or withhold assent to legislation; he may return a bill for reconsideration by the legislature, or reserve it for the consideration of the Governor-General.

(2) It shall not be lawful without the previous sanction of the Governor to introduce any legislation

(i) affecting the religion or religious rites of any class or community in the Province;

(ii) regulating any subject declared under the constitution to be a federal or central subject;

(iii) any measure repealing or affecting any Act of the federal or central legislature or Ordinance made by the Governor-General.

(b) *Conduct of business.*—(1) The Governor shall, with the knowledge of his Ministers, be placed in possession of such information as may be needed by him for the discharge of duties imposed upon him by the constitution.

(2) In the opinion of the sub-Committee, the Chief Minister should preside over meetings of the Cabinet; but on any special occasion, the Governor may preside.

(c) *Relations of the Governor to his Ministers.*—(1) The Ministers shall hold office during the pleasure of the Governor.

(2) Sub-section 3 of section 52 of the Government of India Act, which confers a general power on the Governor to refuse to be guided by the advice of his Ministers when he sees sufficient cause to dissent from their opinion shall no longer operate. The Governor's power to direct that action should be taken otherwise than in accordance with the advice of the Ministers, shall be restricted to the discharge of the specified duties imposed on him

by the constitution. These duties shall include the protection of minorities and the safeguarding of the safety and tranquillity of the Province.

(d) *Special and Emergency powers.*—There shall be vested in the Governor (1) suitable powers in regard to legislation and finance necessary for the discharge of the specified duties imposed upon him by the constitution and (2) suitable emergency powers to carry on the administration in the event of a breakdown of government or the constitution. The powers under (2) shall not remain in operation for more than six months without the approval of Parliament expressed by a resolution of both Houses.

The sub-Committee suggests a rider that in their opinion it is desirable that the present rigid convention in Provinces other than the Presidencies of appointing Governors drawn from the Indian Civil Service should be relaxed. (There was some support for the substitution of the word “ discontinued ” for the word “ relaxed.”)

*(Sir Chimanlal Setalvad, Sir Cowasji Jehangir and Messrs. Ramachandra Rao, Barooah, Chintamani, Joshi, Paul and Ambedkar dissent from the sub-Committee's conclusions on the powers of the Governor.)*

7. *The Composition of the Provincial Legislatures.*—(a) *Their size.*—The sub-Committee anticipates that, to meet the conditions of the new constitutions and electorates, the provincial legislatures will require to be enlarged on the basis of ascertained needs, regard being had to the numbers and character of the constituencies.

(b) *Their lifetime.*—In the opinion of the sub-Committee the normal lifetime of the provincial legislatures should not exceed five years.

(c) *The official bloc.*—With the possible exception of a strictly limited proportion of non-officials who may in some Provinces require to be nominated by the Governor to secure the representation of groups unable to return their own members through the polls, the new provincial legislatures should consist wholly of elected members, and the official bloc should disappear.

(d) *Second Chambers.*—The existing provincial legislatures are unicameral. The sub-Committee recognises that conditions in some Provinces may make it desirable that the provincial legislatures should be bicameral ; but the decision to incorporate a second chamber in the new constitution of any Province other than Bengal, the United Provinces and Bihar and Orissa where opinion in favour of a second chamber has already been expressed should not be taken until opinion in the Province definitely favours this course.

[The reference to the Provinces of Bengal, the United Provinces and Bihar and Orissa was inserted at the wish of a majority of the sub-Committee.]

*Note.*

(1) The question of the administration of the police was raised by Lord Zetland under para. 4, and it was decided that this should be left for the report of the Services sub-Committee when set up.

(2) The sub-Committee did not consider the constitution of the North West Frontier Province since it was understood that a special sub-Committee would be set up to deal with this subject.

(Sd.) ARTHUR HENDERSON,  
*Chairman.*

Secretariat-General,  
St. James's Palace, London.  
15th December, 1930.

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The following Delegates were members of the sub-Committee :—

**COMPOSITION.**

Mr. A. Henderson ( <i>Chairman</i> ).	
Lord Zetland.	
Sir Robert Hamilton.	
H.H. The Maharaja of Nawanagar.	} Holding a watching brief.
Sir Prabhashankar Pattani.	
Rao Bahadur Krishnama Chari.	
Sir Ghulam Hussain Hidayatullah.	
Mr. Jadhav.	
Sir Chimanlal Setalvad.	
Sir Cowasji Jehangir.	
Sir Shah Nawaz Bhutto.	
Sir Provash Chunder Mitter.	
Mr. Fazl-ul-Huq.	
Raja of Parlakimedi.	
Mr. Ramachandra Rao.	
Sir A. P. Patro.	
Nawab Sir Ahmad Said Khan.	
Mr. Chintamani.	
Mr. Tambe.	
Mr. Zafrullah Khan.	
Raja Narendra Nath.	
Sardar Sampuran Singh.	
Maharaja of Darbhanga.	
Mr. Barooah.	
Sir Abdul Qaiyum.	
Mr. Wood.	
Mr. Paul.	
Mr. Joshi.	
Dr. Ambedkar.	

### Sub-Committee No. III (Minorities).

REPORT PRESENTED AT MEETINGS OF THE COMMITTEE OF THE WHOLE CONFERENCE, HELD ON 16TH AND 19TH JANUARY, 1931.

*(With an amendment passed by the Committee of the whole Conference on 19th January, 1931.)*

1. The sub-Committee was set up to consider the claims of minorities, other than those incidental to the subjects referred to other Committees, and was composed of the following members :—

Prime Minister (*Chairman*).

Sir W. A. Jowitt.

Lord Peel.

Major Stanley.

Lord Reading.

Mr. Foot.

H.H. The Aga Khan.

Maulana Muhammad Ali.

Dr. Ambedkar.

Sir Shah Nawaz Bhutto (after the death of Maulana

Sir Hubert Carr. Muhammad Ali).

Mr. Chintamani.

Nawab of Chhitari.

Mr. Fazl-ul-Huq.

Mr. Ghuznavi.

Lieut.-Col. Gidney.

K.B. Hafiz Hidayat Husain.

Mr. Joshi.

Sir P. C. Mitter.

Dr. Moonje.

Raja Narendra Nath.

Rao Bahadur Pannir Selvam.

Sir A. P. Patro.

Mr. Paul.

Mr. Ramachandra Rao.

Mr. Shiva Rao.

Sir Sultan Ahmed.

Sir M. Shafi.

Sardar Sampuran Singh.

Mr. Sastri.

Sir C. Setalvad.

Sir Phiroze Sethna.

Dr. Shafa'at Ahmad Khan.

Begum Shah Nawaz.

Rao Bahadur Srinivasan.

Mrs. Subbarayan.

Sardar Ujjal Singh.

Mr. Zafrullah Khan.

Captain Raja Sher Muhammad Khan and Nawab Sir Abdul Qaiyum (after the departure of Sir Sultan Ahmed and the Nawab of Chhitari).

2. The sub-Committee felt that the first task to which it should address itself was to have an authoritative statement of claims put in by the representatives of each community with proposals as to how their interests should be safeguarded. Opinion was unanimous that, in order to secure the co-operation of all communities, which is essential to the successful working of responsible government in India, it was necessary that the new constitution should contain provisions designed to assure communities that their interests would not be prejudiced; and that it was particularly desirable that some agreement should be come to between the major communities in order to facilitate the consideration of the whole question. Although this was very nearly accomplished, it has not yet succeeded, but the negotiations are to be continued both here and in India.

3. One of the chief proposals brought before the sub-Committee was the inclusion in the constitution of a declaration of fundamental rights safeguarding the cultural and religious life of the various communities and securing to every individual, without discrimination as to race, caste, creed or sex, the free exercise of economic, social and civil rights (Mr. Joshi objected to the omission of reference to the economic rights of the various communities. Dr. Ambedkar called attention to the necessity of including in the constitution sanctions for the enforcement of the fundamental rights, including a right of redress when they are violated.)

4. The possibility was expressed that under certain conditions the election of the Legislatures might be from a general register, but no agreement was come to regarding these conditions.

Whilst it was generally admitted that a system of joint free electorates was in the abstract the most consistent with democratic principles as generally understood, and would be acceptable to the Depressed Classes after a short transitional period provided the franchise was based on adult suffrage, the opinion was expressed that, in view of the distribution of the communities in India and of their unequal economic, social and political effectiveness, there was a real danger that under such a system the representation secured by minorities would be totally inadequate, and that this system would therefore give no communal security.

5. Claims were therefore advanced by various communities that arrangements should be made for communal representation and for fixed proportions of seats. It was also urged that the number of seats reserved for a minority community should in no case be less than its proportion in the population. The methods by which this could be secured were mainly three: (1) nomination, (2) joint electorates with reservation of seats, and (3) separate electorates

6. Nomination was unanimously deprecated.

7. Joint electorates were proposed, with the proviso that a proportion of seats should be reserved to the communities. Thus a more democratic form would be given to the elections, whilst the purpose of the separate electorate system would be secured. Doubts were expressed that, whilst such a system of election might secure the representation of minorities, it provided no guarantee that the representation would be genuine, but that it might, in its working, mean the nomination or, in any event, the election of minority representatives by the majority communities.

It was pointed out that this was in fact only a form of community representation and had in practice all the objections to the more direct form of community electorates.

8. The discussion made it evident that the demand which remained as the only one which would be generally acceptable was separate electorates. The general objection to this scheme has been subject to much previous discussion in India. It involves what is a very difficult problem for solution, viz., what should be the amount of communal representation in the various Provinces and in the Centre; that, if the whole, or practically the whole, of the seats in a Legislature are to be assigned to communities, there will be no room for the growth of independent political opinion or of true political parties, and this problem received a serious complication by the demand of the representative of the Depressed Classes that they should be deducted from the Hindu population and be regarded, for electoral purposes, as a separate community.

9. It was suggested that, in order to meet the most obvious objection to the earmarking of seats to communities, only a proportion should be so assigned—say 80 per cent. or 90 per cent.—and that the rest should be filled by open election. This, however, was not regarded by some of the communities as giving them the guarantees they required.

10. The scheme proposed by Maulana Muhammad Ali, a member of the sub-Committee, whose death we deplore, that, as far as possible, no communal candidate should be elected unless he secured at least 40 per cent. of the votes of his own community and at least 5 or 10 per cent., according to arrangement, of the votes of the other community, was also considered. It was, however, pointed out that such a scheme necessarily involved the maintenance of communal registers, and so was open to objections similar to those urged against separate electorates.

11. No claim for separate electorates or for the reservation of seats in joint electorates was made on behalf of women who should continue to be eligible for election on the same footing as men.

But, in order to familiarise the public mind with the idea of women taking an active part in political life and to secure their interim representation on the Legislature, it was urged that 5 per cent. of the seats in the first three Councils should be reserved for women and it was suggested that they should be filled by co-option by the elected members voting by proportional representation.

12. There was general agreement with the recommendation of sub-Committee No. II (Provincial Constitution) that the representation on the Provincial Executives of important minority communities was a matter of the greatest practical importance for the successful working of the new constitution, and it was also agreed that, on the same grounds, Muhammadans should be represented on the Federal Executive. On behalf of the smaller minorities a claim was put forward for their representation, either individually or collectively, on the Provincial and Federal Executives, or that, if this should be found impossible, in each Cabinet there should be a Minister specially charged with the duty of protecting minority interests.

(Dr. Ambedkar and Sardar Ujjal Singh would add the words "and other important minorities" after the word Muhammadans in line 6.)

The difficulty of working jointly responsible Executives under such a scheme as this was pointed out.

13. As regards the administration, it was agreed that recruitment to both Provincial and Central Services should be entrusted to Public Service Commissions, with instructions to reconcile the claims of the various communities to fair and adequate representation in the Public Services, whilst providing for the maintenance of a proper standard of efficiency.

\*14. On behalf of the British commercial community it was urged that a commercial treaty should be concluded between Great Britain and India, guaranteeing to the British mercantile community trading rights in India equal to those enjoyed by Indian-born subjects of His Majesty on the basis of reciprocal rights to be guaranteed to Indians in the United Kingdom. It was agreed that the existing rights of the European community in India in regard to criminal trials should be maintained.

15. The discussion in the sub-Committee has enabled the Delegates to face the difficulties involved in the schemes put up, and though no general agreement has been reached, its necessity has become more apparent than ever.

16. It has also been made clear that the British Government cannot, with any chance of agreement, impose upon the communities an electoral principle which, in some feature or other, would be met

by their opposition. It was therefore plain that, failing an agreement, separate electorates with all their drawbacks and difficulties, would have to be retained as the basis of the electoral arrangements under the new constitution. From this the question of proportions would arise. Under these circumstances, the claims of the Depressed Classes will have to be considered adequately.

17. The sub-Committee, therefore, recommend that the Conference should register an opinion that it was desirable that an agreement upon the claims made to it should be reached, and that the negotiations should be continued between the representatives concerned, with a request that the result of their efforts should be reported to those engaged in the next stage of these negotiations.

18. The Minorities and Depressed Classes were definite in their assertion that they could not consent to any self-governing constitution for India unless their demands were met in a reasonable manner.

Signed on behalf of the sub-Committee,

J. RAMSAY MACDONALD.

St. James's Palace, London.

16th January, 1931.

\* The Committee of the whole Conference at their meeting on 19th January, 1931, substituted the following for paragraph 14:—

“At the instance of the British commercial community the principle was generally agreed that there should be no discrimination between the rights of the British mercantile community, firms and companies, trading in India and the rights of Indian-born subjects, and that an appropriate convention based on reciprocity should be entered into for the purpose of regulating these rights.

It was agreed that the existing rights of the European community in India in regard to criminal trials should be maintained.”



### Sub-Committee No. IV. (Burma.)

REPORT PRESENTED AT 3RD MEETING OF THE COMMITTEE OF THE WHOLE CONFERENCE, ON 16TH JANUARY, 1931.

On December 1st the Committee of the whole Conference set up a sub-Committee with the following terms of reference :—

“ To consider the nature of the conditions which would enable Burma to be separated from British India on equitable terms, and to recommend the best way of securing this end.”

The following Delegates were selected to serve on this sub-Committee, over which I was appointed Chairman :—

Lord Peel.	Mr. Srinivasan.
Mr. Foot.	Captain Raja Sher Muhammad
Mr. Aung Thin.	Khan.
Mr. Ba Pe.	Mr. Mody.
Mr. Ohn Ghine.	Mr. Ghuznavi.
Mr. de Glanville.	Sir B. N. Mitra.
Mr. Chintamani.	Sir Hubert Carr.

Mr. Shiva Rao was subsequently selected to take the place of Mr. Chintamani.

The sub-Committee met on the 5th, 8th, and 9th December, 1930, and have authorised me to present this Report. The following conclusions were reached :—

(1) The sub-Committee ask His Majesty's Government to make a public announcement that the principle of separation is accepted; and that the prospects of constitutional advance towards responsible government held out to Burma as part of British India will not be prejudiced by separation.

[Mr. Mody and Mr. Shiva Rao desire it to be recorded that they cannot endorse this recommendation without qualification.]

(2) The sub-Committee are of opinion that the legitimate interests of Indian and other minorities must be safeguarded. They are not in a position to advise as to the particular form of protection these interests require. They consider that when the details of the constitution of Burma are being discussed, the fullest opportunity should be given to all minorities and to the Government of India to represent their views and to state the nature and extent of the safeguards they consider necessary. The sub-Committee consider that adequate attention should be paid to the question of immigration of Indian Labour and that provision should be made for the regulation of the conditions of both the work and life of the immigrants. The sub-Committee also especially stress the importance of there being no discrimination as regards Indians entering Burma.

(3) There must be a financial settlement between India and Burma.

The questions are very difficult and technical, and the sub-Committee consider that they should be dealt with in the manner recommended by the Government of India in paragraph 93\* of their Despatch (Cmd. 3700).

The sub-Committee also recommend that when the case has been thoroughly explored by the experts of the two Governments, the statements prepared by these experts should be laid before the Standing Finance Committees of the Indian Legislative Assembly and the Burma Legislative Council respectively, and that representatives of these Committees should be associated with the experts in the proceedings of the Arbitral Board.

The sub-Committee also endorse the view expressed by the Government of India in paragraph 86 of their Despatch† regarding “the great desirability . . . of adjusting the relations between the two countries in a spirit of reason and mutual accommodation so as to avoid as far as possible the ill effects which might arise from so great a change in long established practice.” They venture to express the hope that all negotiations between the two Governments, whether in relation to the financial adjustment or to other matters, will be approached in this spirit.

(4) The sub-Committee recognise that adequate arrangements must be made for the defence of Burma after separation, but they consider that the precise nature of these arrangements must be decided in the light of expert military opinion.

(5) The sub-Committee note the fact that arrangements for the taking over of the administration of subjects now classed as Central in the Devolution Rules must be made by the Government of Burma. The sub-Committee recommend that it should be considered whether, subject to the consent of the Government of India and on terms to be arranged, the Government of Burma should continue to make use of certain scientific Services of the Government of India.

(6) The sub-Committee express the hope that it may be found possible to conclude a favourable Trade Convention between India and Burma. They believe that a Trade Convention would benefit both countries, and they think it important that separation should cause a minimum disturbance of the close trade connections that exist between the two countries.

(Signed) RUSSELL,  
*Chairman.*

St. James's Palace,  
London.

9th December, 1930.

\* Annex.

† Cmd. 3700.

## ANNEX.

EXTRACT FROM PARAGRAPH 93 OF THE DESPATCH OF THE GOVERNMENT OF  
INDIA (CMD. 3700).

“It is clear that the separation of the finances of the country will raise extremely difficult issues, requiring close expert analysis, in the decision of which it will be essential to hold an even balance between what may be conflicting claims. We agree with the local Government that the best method of approaching this difficult problem is to endeavour, by mutual co-operation between the Government of India and the Government of Burma, to draw up an agreed statement of the case for reference to an impartial tribunal. The subjects requiring settlement will be of a technical nature, and will include, besides the normal questions of the adjustment of revenue and expenditure, such matters as the allocation of debt charges and the adjustment of currency arrangements. No constitutional commission could deal satisfactorily with these questions, for its functions would be entirely different, as also its probable methods of enquiry. In arriving at a financial settlement the main point to be considered is the need for satisfying public opinion in both countries that each is being fairly treated. Indian public opinion would watch this aspect of the arrangements very jealously, more particularly the allocation of debt burdens. We believe that a committee of the Privy Council would be the sort of tribunal most likely to satisfy Indian opinion. Their decisions could be given on evidence placed before them, assisted by expert witnesses, or possibly assessors, from India and from Burma.”

### Sub-Committee No. V. (North West Frontier Province.)

REPORT PRESENTED AT THE MEETING OF THE COMMITTEE OF THE WHOLE CONFERENCE, HELD ON 16TH JANUARY, 1931.

1. Sub-Committee No. V submits the following report subject to adjustment to the complete constitution.

2. The terms of reference to the sub-Committee were to consider "what modifications, if any, are to be made in the general provincial constitution to suit the special circumstances of the North West Frontier Province."

3. The sub-Committee comprised the following members :—

Mr. A. Henderson	Sir B. N. Mitra.
(Chairman).	Raja Narendra Nath.
Lord Russell.	Mr. H. P. Mody.
Lord Reading.	Sir A. P. Patro.
Lord Lothian.	Nawab Sir Abdul Qaiyum
Lord Zetland.	Khan.
Sir Samuel Hoare.	Sir Muhammad Shafi.
Maulana Muhammad Ali.	Sardar Sampuran Singh.
Sir Shah Nawaz Bhutto.	Dr. Shafa'at Ahmad
Captain Raja Sher	Khan.
Muhammad Khan.	Mr. C. E. Wood.
Dr. Moonje.	Mr. Zafrullah Khan.

It held meetings on the 18th and 30th December, 1930, and on the 1st January, 1931.

4. *The Need for Reform.*—The sub-Committee is unanimous in attaching urgent importance to the need for reform in the North West Frontier Province. It recommends that the five administered districts should cease to be as they are at present a centrally administered territory under the direct control of the Government of India, and that they should be given the status of a Governor's province, subject to such adjustment of detail as local circumstances require, and the extent of the All-India interests in the province necessitate.

5. *The Classification of Provincial Subjects.*—The sub-Committee recommends that, as in other Governors' provinces, there should be a classification of provincial subjects entrusted to the charge of the provincial government. The precise discrimination of subjects between the Centre and the North West Frontier Province will require careful investigation, if necessary, by a specially constituted committee following broadly the lines of the classification in other provinces. Subject to the findings of such a committee the sub-Committee contemplates that the charge of the ordinary civil police

in the five administered districts excluding the frontier constabulary will pass to the provincial government of these districts, but in view in particular of the close relation of the province with matters of defence and foreign policy the sub-Committee considers it essential that all matters of All-India importance and all matters connected with the control of the tribal tracts, for instance, the frontier constabulary, frontier remissions and allowances, and strategic roads should be excluded from the purview of the provincial government and classed as central subjects. The broad point is that in making the dividing line between central and provincial subjects, regard would be had to the need for classifying as central certain subjects of All-India importance peculiar to the present administration of the North West Frontier Province, which could not properly be entrusted to the provincial legislature.

6. *The Executive*.—The sub-Committee recommends that the Executive should consist of the Governor assisted by the advice of two ministers drawn from the non-official members of the legislature, at least one of whom shall be elected.

The Governor should also function as Agent to the Governor-General for the control of the tribal tracts, and the administration of central subjects peculiar to the North West Frontier Province. With these subjects, since they will be not provincial but central subjects, the ministers will have no concern. The sub-Committee considers it essential owing to the close inter-relation between the trans-border tracts and the settled districts and in order that All-India interests may be adequately secured—that in addition to possessing all the powers vested in the Governor of a Governor's province, the Governor of the North West Frontier Province should be the effective head of the Provincial administration and should preside over the meetings of his own cabinet.

*Note I*.—Sir Samuel Hoare holds the view that in accordance with the recommendation of the Chief Commissioner of the North West Frontier Province, and the Despatch of the Government of India, one of the ministers should be an official.

*Note II*.—Sir B. N. Mitra suggested the words “acting on the advice of two ministers” in place of the words “assisted by the advice of two ministers” in the first sentence of the paragraph.

7. *The Legislature*.—(i) A unicameral legislative Council. The sub-Committee recommends that there should be set up for the five administered districts a single-chamber legislative Council with power to pass legislation and vote supply in regard to all subjects that may be classed as provincial. In addition the legislature should possess the usual powers of deliberation and of interpellation.

(ii) Its size. The size of the legislature should be suited to the convenience of the constituencies. The sub-Committee contemplates a legislative Council with a probable total membership, elected and nominated, of not more than 40 members.

(iii) Its composition. The sub-Committee considers that the legislature should for the present be composed both of elected and of nominated elements. The nominated members shall not exceed 14 members in a house of 40 ; and of the nominated members not more than six to eight should be officials.

(iv) The franchise. The sub-Committee suggests that the franchise in the North West Frontier Province should be examined by the Franchise Committee to be set up to report on the franchise in all provinces.

(v) Minority representation. Subject to such recommendations as the Minorities sub-Committee may make, this sub-Committee considers that if Muslims are given weightage in provinces where they are in a minority, the Hindus and Sikhs in the North West Frontier Province should be given weightage in the legislature of that province. Their representation might be three times the figure to which they would be entitled on a population basis.

8. *The Financial Settlement.*—The sub-Committee is satisfied from figures placed before it that on subjects which may be expected to be classed as provincial, the province will show a large financial deficit. It follows that the provincial government will require financial assistance from central (or federal) revenues. The Committee suggests that there should be preliminary expert investigation into the allocation of expenditure between central and provincial heads to supply the basis from which the financial subvention from central (or federal) revenues may be calculated. The sub-Committee apprehends that if the subvention be open to debate annually in the central (or federal) legislature, the substance of provincial autonomy in the North West Frontier Province may be impaired. It suggests that the difficulty might be met by an agreed convention that each financial assignment should run undisturbed for a period of years.

(Signed)      ARTHUR HENDERSON,  
*Chairman.*

St. James's Palace,  
 London.

1st January, 1931.

### Sub-Committee No. VI (Franchise).

REPORT PRESENTED AT THE MEETING OF THE COMMITTEE OF THE WHOLE CONFERENCE, HELD ON 16TH JANUARY, 1931.

1. The terms of reference to this sub-Committee were as follows :—

“ On what main principles is the Franchise to be based for men and women.”

The following Delegates were selected to serve on the sub-Committee :—

Sir W. A. Jowitt  
(*Chairman*).

Lord Zetland.

Major Stanley.

Sir R. Hamilton.

Mr. Foot.

Dr. Ambedkar.

Mr. Basu.

Mr. Barooah.

Mr. Chintamani.

Mr. Fazl-ul-Huq.

Mr. Ghuznavi.

Lieut.-Colonel Gidney.

Sir Ghulam Hussain

Hidayatullah.

Mr. Hafiz Hidayat

Husain.

Mr. B. V. Jadhav.

Sir Cowasji Jehangir.

Mr. Joshi.

Dr. Narendra Nath Law.

Sir P. C. Mitter.

Mr. Pannir Selvam.

Raja of Parlakimedi.

Mr. K. T. Paul.

Mr. Ramachandra Rao.

Mr. Shiva Rao.

Sardar Sampuran Singh.

Sardar Ujjal Singh.

Sir Chimanlal Setalvad.

Kunwar Bisheshwar Dayal  
Seth.

Sir Phiroze Sethna.

Dr. Shafa'at Ahmad  
Khan.

Mr. Zafrullah Khan.

Begum Shah Nawaz.

Mrs. Subbarayan.

Mr. Srinivasan.

Mr. S. B. Tambe.

Sir Hubert Carr.

2. The sub-Committee met on the 19th, 22nd, and 30th of December, 1930, and on the 1st of January, 1931, and have authorised me to present this Report.

3. In our discussion of the franchise principles we have found that they were closely connected with questions which more properly concern the composition of the legislature, the nature of the constituencies, and the qualifications for candidates for election. These points have not been considered in the sub-Committee as they fall outside its terms of reference but we are of opinion that they should be further examined since the efficacy of any franchise system depends as much on these points as on the qualifications for the franchise.

4. *Extension of the franchise.*—While it was generally held that adult suffrage was the goal which should ultimately be attained, it was agreed that the basis of the franchise could forthwith be broadened and that a large increase was desirable.

Some difference of opinion existed as to the extent to which this was practicable in present circumstances, and it was realised that the sub-Committee had not the necessary material to determine the precise limits of the advance. The Statutory Commission suggested such an increase in the number of electors as would bring that number up to 10 per cent. of the total population. Some of our members thought that an increase to 25 per cent. of the total population was immediately practicable.

We recommend that an expert Franchise Commission should be appointed with instructions to provide for the immediate increase of the electorate so as to enfranchise not less than 10 per cent. of the total population and indeed a larger number—but not more than 25 per cent. of the total population—if that should, on a full investigation, be found practicable and desirable.

We recommend that, in addition to providing for this increase, the Commission should consider the introduction of a scheme by which all adults not entitled to a direct vote would be grouped together in primary groups of about 20 or in some other suitable manner, for the election of one representative member from each group, who would be entitled to vote in the Provincial elections either in the same constituencies as the directly qualified voters or in separate constituencies to be formed for them.

[Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar, Mr. Srinivasan, Mr. K. T. Paul, and Mr. Jadhav regard these proposals as quite inadequate and consider that the immediate introduction of adult suffrage is both practicable and desirable.

Sir Cowasji Jehangir and Sir P. C. Mitter dissent from these proposals and consider that the basis of the franchise should be broadened, if at all, by another system.]

5. *Uniformity of qualifications for the franchise.*—We recommend that in any given area the franchise qualifications should be the same for all communities; but we desire that the Franchise Commission in making their proposals should bear in mind that the ideal system would as nearly as possible give each community a voting strength proportional to its numbers and that the Commission should so contrive their franchise system as to secure this result in so far as it may be practicable.

[Sardar Ujjal Singh, Sardar Sampuran Singh, Sir Cowasji Jehangir, and Lieut.-Colonel Gidney dissent from the latter part of this conclusion.]



6. *Property qualification.*—We consider that there should be a property qualification for the franchise and that in this connection the word “property” should be understood in its widest sense as including not only the ownership of landed property but also the occupation of landed or house property or the receipt of income or wages whether in cash or kind.

7. *Educational qualification.*—We are of opinion that the Franchise Commission should consider the possibility of framing a suitable educational qualification as an additional qualification for the franchise, bearing in mind the ideal enunciated at the end of paragraph 5.

8. *Military service qualification.*—We are agreed that the existing Military Service qualification should be retained and we recommend that the Franchise Commission should consider the extension of this qualification so as to include service in the Auxiliary and Territorial Forces.

9. *Special franchise qualification for women.*—We observe that under the existing franchise the number of women voters is infinitesimal as compared with that of men. No system of franchise can be considered as satisfactory, or as likely to lead to good government where such a great disparity exists between the voting strength of the two sexes. We do not anticipate that the recommendations we have already made will reduce this disparity, nor do we think that they provide sufficiently for the enfranchisement of women. We therefore agree that special qualifications should be prescribed for women but we feel that there is not sufficient material before us to justify an attempt to formulate these special qualifications. We therefore recommend that the Franchise Commission should devote special attention to this question in the light of all the evidence available including the recommendations of the Statutory Commission and the suggestion made in this sub-Committee that the age limit mentioned in the proposals of the Statutory Commission should be lowered from 25 to 21.

[Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar, and Mr. Srinivasan dissent from the proposals in paragraphs 7, 8, and 9.]

10. *The franchise for special constituencies.*—We are of opinion that the franchise qualifications for special constituencies depend essentially on the nature of those constituencies. We are not empowered to consider the latter point nor are we in possession of information as to what special constituencies are contemplated. These questions require examination by a competent body. So far as the franchise aspect has been discussed in this sub-Committee a division of opinion has shown itself as to the desirability of permitting a voter qualified in both a general and a special constituency to vote in both.

11. *Urban and rural enfranchisement.*—We are of opinion that the Franchise Commission should endeavour so to adjust the franchise qualifications as to remove in those areas where it may exist any marked disparity in the operation of the franchise qualifications in urban as compared with rural areas.

12. *The residential requirement.*—We are of opinion that the residential qualification for the vote required by the electoral rules of certain Provinces should be abolished.

13. *The future electorate.*—We consider it inadvisable to lay down any programme of automatic extensions of the franchise. We prefer that it should be left to each Provincial Legislature to extend its franchise at its discretion after the lapse of 10 years from the date of the introduction of the new Constitutions.

[Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar, and Mr. Srinivasan consider that a programme of automatic extension of the franchise should be laid down.]

14. *Franchise for the Central or Federal Legislature.*—The form of the Central or Federal Legislature has not yet been decided and in these circumstances we do not find it possible to make any suggestions regarding a suitable franchise system.

[Mr. Fazl-ul-Huq and Mr. Ghuznavi desire it to be recorded that their assent to this report is contingent on the retention of separate electorates.]

(Sd.) W. A. JOWITT,  
*Chairman.*

St. James's Palace, London.

1st January, 1931.

### Sub-Committee No. VII (Defence).

REPORT PRESENTED AT THE MEETING OF THE COMMITTEE OF THE  
WHOLE CONFERENCE HELD ON 16TH JANUARY, 1931.

1. The terms of reference of this sub-Committee were as follows :—

“ To consider questions of political principle relating to defence, other than strictly constitutional aspects to be considered under heads 6 (Powers of the Executive) and 12 (Relations with the Crown).”

The following Delegates were selected to serve on the sub-Committee :—

Mr. J. H. Thomas (*Chairman*).  
 Lord Peel.  
 Sir S. Hoare.  
 Lord Reading.  
 Lord Lothian.  
 H H. The Maharaja of Alwar.  
 H.H. The Nawab of Bhopal.  
 H.H. The Maharaja of Bikaner.  
 H.H. The Maharaja of Kashmir.  
 H.H. The Maharaja of Patiala.  
 Sir Akbar Hydari.  
 Sir Mirza Ismail.  
 Colonel Haksar.  
 The Rt. Hon. Srinivasa Sastri.  
 Sir Tej Bahadur Sapru.  
 Diwan Bahadur M. Ramachandra Rao.  
 Diwan Bahadur Ramaswami Mudaliyar.  
 Sir Phiroze Sethna.  
 Mr. M. R. Jayakar.  
 Dr. B. S. Moonje.  
 Mr. Jadhav.  
 Sir B. N. Mitra.  
 Sardar Sahib Ujjal Singh.  
 Lieut.-Col. Gidney.  
 Sir Hubert Carr.  
 Sir Muhammad Shafi.  
 Mr. M. A. Jinnah.  
 Dr. Shafa'at Ahmad Khan.  
 Nawab Sir Abdul Qaiyum.  
 Raja Sher Muhammad Khan.

2. The sub-Committee met on the 7th, 9th, 12th, and 14th January, 1931, and have authorised me to present this report.

3. The discussion in the sub-Committee centred mainly round the question of Indianisation, and every aspect of this question received thorough attention. It was unanimously agreed that in a matter of such importance as Defence, the utmost care was necessary in expressing opinions, and the sub-Committee as a whole was very anxious not to create the impression that anyone in any way or to any degree wanted to say anything that could even remotely tend to imperil the safety of the country or to weaken the strength of the Army. It was in view of this general feeling that all sections of the sub-Committee emphasized the importance of maintaining the same standard of efficiency in training as prevails now in England. The sub-Committee also recognised that in dealing with the question of Defence it was not possible to overlook that a factor that must govern all considerations of the subject was the responsibility of the Crown through the Committee of Imperial Defence, which body was ultimately responsible for examining all these problems. It was realised that the responsibility of the Committee of Imperial Defence was not something that was special to India, but was common to the Empire as a whole.

Subject to the above matters of agreement, the general discussion regarding Indianisation was on the following lines. The majority of the sub-Committee considered it impossible for practical reasons to lay down any definite rate of Indianisation or anything of a precise character that might in any way embarrass those responsible for Defence and fetter the judgment or the discretion of the military authorities. Those that held this view felt that the principle of the Indianisation of officers of the Indian Army could not be looked upon as merely a question regarding the efficiency of a single officer or group of officers, or even of a single unit or group of units. It was a principle that to the majority appeared to affect the Army as a whole. It was in consequence the view of this large section of the sub-Committee that a highly technical question was involved on which the sub-Committee was not qualified to express an opinion. One section of the sub-Committee, however, was in favour of a strong affirmation to the effect that the complete Indianisation of the officers in the Indian Army should take place within a specified period, subject of course to the requirements of efficiency, and further subject to the provision of suitable candidates for recruitment as officers in India. Those members who were of this opinion held the view that this was not a technical question at all, but involved only practical considerations. The difference in these two views being fundamental, the sub-Committee decided to incorporate these in its report, and the Chairman further undertook that, when, in pursuance of the resolutions of this sub-Committee, expert committees were appointed, those expert committees would as a matter of course

take into consideration the proceedings of previous Committees and in particular the proceedings of the Military Requirements Committee of 1921 and the Committee on the Indianisation of the Indian Army of 1922.

4. Subject to the above the sub-Committee arrived at the following definite resolutions :—

(1) The sub-Committee consider that with the development of the new political structure in India, the Defence of India must to an increasing extent be the concern of the Indian people, and not of the British Government alone.

(2) In order to give practical effect to this principle, they recommend—

(a) That immediate steps be taken to increase substantially the rate of Indianisation in the Indian Army to make it commensurate with the main object in view, having regard to all relevant considerations, such as the maintenance of the requisite standard of efficiency. (Mr. Jinnah dissented and desired a clear indication of the pace of Indianisation.)

(b) That in order to give effect to (a) a training college in India be established at the earliest possible moment, in order to train candidates for commissions in all arms of the Indian defence services. This college would also train prospective officers of the Indian State Forces. Indian cadets should, however, continue to be eligible for admission as at present to Sandhurst, Woolwich, and Cranwell.

(c) That in order to avoid delay the Government of India be instructed to set up a Committee of Experts, both British and Indian (including representatives of Indian States) to work out the details of the establishment of such a college.

(3) The Committee also recognise the great importance attached by Indian thought to the reduction of the number of British troops in India to the lowest possible figure and consider that the question should form the subject of early expert investigation.

5. A view was expressed that an addition should be made to these resolutions to the effect that the sub-Committee recognised that no action should be taken so as to prejudice in any way the power of the Crown to fulfil military obligations arising out of treaties with particular Indian States. It was ruled, however, and accepted by the sub-Committee that such a specific declaration was unnecessary ; the Chairman giving an undertaking that neither this sub-Committee nor any other Committee could in any way abrogate treaty obligations and engagements that were in operation.

6. In agreeing to the foregoing recommendations the Committee were unanimous in their view that the declaration must not be taken as a mere pious expression of opinion, but that immediately the Conference was concluded, steps should be taken to deal effectively with the recommendations made.

7. The advisability of establishing a Military Council including representatives of the Indian States was agreed to.

Signed on behalf of the sub-Committee,

J. H. THOMAS.

ST. JAMES'S PALACE,

LONDON,

14th January, 1931.

### Sub-Committee No. VIII (Services).

REPORT PRESENTED AT THE MEETING OF THE COMMITTEE OF THE  
WHOLE CONFERENCE, HELD ON 16TH JANUARY, 1931.

The terms of reference to this sub-Committee were as follows :—  
“The Relation of the Services to the new political structure.”

The following Delegates were selected to serve on the sub-Committee :—

Sir William Jowitt (Chairman).  
Lord Zetland.  
Major Stanley.  
Lord Reading.  
Sir Robert Hamilton.  
H.H. The Maharaja of Alwar.  
H.H. The Maharaja of Nawanagar.  
Sir Prabhashankar Pattani.  
Rao Bahadur Krishnama Chari.  
Sahibzada Sultan Ahmed Khan.  
Mr. Chintamani.  
Sir P. C. Mitter.  
Dr. Narendra Nath Law.  
Mr. Basu.  
Mr. Tambe.  
Sir Chimanlal Setalvad.  
Mr. Shiva Rao.  
Mr. Mody.  
Sir Cowasji Jehangir.  
Sir A. P. Patro.  
Rai Bahadur Kunwar Bisheshwar Dayal Seth.  
Maharajadhiraja Kameshwar Singh of Darbhanga.  
Raja of Parlakimedi.  
Dr. Ambedkar.  
Lieutenant-Colonel H. A. J. Gidney.  
Mr. Paul.  
Sardar Sampuran Singh.  
Sir Shah Nawaz Bhutto.  
Mr. Ghuznavi.  
Khan Bahadur Hafiz Hidayat Husain.  
Mr. Zafrullah Khan.  
Dr. Shafa 'at Ahmad Khan.  
Mr. Fazl-ul-Huq.  
Sir Edgar Wood.

The sub-Committee met on the 6th, 7th, 8th, 9th, 12th, and 13th of January, 1931, and have authorised me to present this Report.

1.—*Existing members of the Services.*—Inasmuch as the Government of India Act and the rules made thereunder by the Secretary of State in Council guarantee certain rights and safeguards to members of the Services, due provision should be made in the new constitution for the maintenance of those rights and safeguards for all persons who have been appointed before the new constitution comes into force.

When the new constitution is drawn up suitable safeguards for the payment of pensions (including family pensions) and provident funds, should be provided.

As it is important that those responsible for the working of the new constitution should not at its initiation be embarrassed by the economic waste and administrative difficulties which a change of staff on a large scale would entail, it is desirable to take such steps as are necessary to reassure existing members of the Services with the view that they may serve with loyalty and efficiency for their normal term.

To this end the sub-Committee agreed that the right to retire on proportionate pension should be extended, but opinion was divided as to whether the extension should be for an unlimited term or for a definite period of years, not exceeding five years.

2. *Future recruitment for the All-India Services.*—We recommend that for the Indian Civil and Indian Police Services recruitment should continue to be carried out on an All-India basis, but the majority of the Committee are of opinion that recruitment for Judicial Offices should no longer be made in the Indian Civil Service. The Indian Forest Service and the Irrigation Branch of the Indian Service of Engineers should be provincialised.

(Four members would prefer that the Irrigation Branch should remain an All-India Service.)

Mr. Shiva Rao and Mr. Tambe desire to record their view that all Services should be provincialised forthwith.

Dr. Ambedkar, Mr. Zafrullah Khan, and Sardar Sampuran Singh are averse to further recruitment on an All-India basis for the Indian Civil Service and the Indian Police Service, save in respect of the European element in those Services.)

3. *The recruiting and controlling authority for the future All-India Services.*—Since we are recommending that the Indian Forest Service and the Irrigation Branch of the Indian Service of Engineers should no longer be recruited on an All-India basis, we do not think it necessary to offer any special observations with regard to these two Services.

On the question whether we should record any recommendation as to the desirability of securing a continuance of the recruitment of a European element in the Indian Civil Service and the Indian Police Service there was some divergence of opinion.



(3) Members of the Public Service Commissions shall hold office during the pleasure of the Crown and be removable by the Governor, in the case of a Provincial Commission, and by the Governor-General in the case of the Central Commission. They shall, after ceasing to be members of a Commission, be ineligible for a period to be fixed by the Governor or Governor-General as the case may be for further office under the Crown in India, except that persons who have been members of a Provincial Public Service Commission shall be eligible for appointment as members of the Central Commission or of another Provincial Commission, and *vice versa*.

(4) The sub-Committee recognise the special position of the Anglo-Indian community in respect of public employment, and recommend that special consideration should be given to their claims for employment in the Services.

(5) There should be a statutory declaration that

(a) No person shall be under any disability for admission into any branch of the Public Services of the country merely by reason of community, caste, creed, or race.

(b) Membership of any community, caste, creed, or race shall not be a ground for promotion or supersession in any Public Services.

In making this recommendation the sub-Committee have particularly in mind the case of the Depressed Classes. They desire that a generous policy be adopted in the matter of the employment of the Depressed Classes in Public Service, and in particular recommend that the recruitment to all Services, including the Police, should be thrown open to them.

6. *Internal Administration of the Police*.—Subject to the recommendation which has already been made by the “Provincial Constitution” sub-Committee, that under the new constitution responsibility for law and order should be vested in the Provincial Governments, the question whether in consequence any special recommendation should be made as to the internal administration of the Police was left to this sub-Committee. We have given consideration to various suggestions made under this head. Some of the sub-Committee think it undesirable to make any recommendation which might be held to impinge upon the discretion of the future Provincial Governments. Others, who consider that the control over the Police Forces at present secured to the Inspectors-General by statute should be preserved, advise that the Police Act of 1861 should not be subject to repeal or alteration by the Legislature without the prior consent of the Governor-General, and that the Police Acts of the Governments of Bombay, Bengal, and Madras should be included in the category of Acts which should not be repealed or altered by the Provincial Legislature without the previous sanction of the Governor-General.

7. *The Central Services.*—We recommend that the Government of India should be the authority for recruitment to the Services which are under the control of Ministers responsible to the Legislature. As regards the Services under the control of the Governor-General, we do not feel called upon to make any recommendation.

Signed on behalf of the sub-Committee.

W. A. JOWITT,

*Chairman.*

ST. JAMES'S PALACE,

LONDON.

13th January, 1931.

### Sub-Committee No. IX (Sind).

REPORT PRESENTED AT THE MEETING OF THE COMMITTEE OF THE  
WHOLE CONFERENCE, HELD ON 16TH JANUARY, 1931.

1. The members of the sub-Committee were :—

Lord Russell (Chairman).  
Lord Zetland.  
Lord Reading (for whom Mr. Foot acted as substitute).  
H.H. The Aga Khan.  
Mr. Jinnah.  
Sir S. N. Bhutto.  
Sir G. Hussain Hidayatullah.  
Sir Abdul Qaiyum.  
Sir M. Shafi.  
Dr. Shafa'at Ahmad Khan.  
Sardar Sampuran Singh.  
Dr. Moonje.  
Mr. Jayakar.  
Raja Narendra Nath.  
Mr. Chintamani.  
Mr. Jadhav.  
Sir P. Sethna.  
Mr. Mody.  
Sir H. Carr.

The terms of reference were to consider—

“the question of constituting Sind as a separate Province.”

The sub-Committee sat on 12th, 13th and 14th January, and have authorised me to present this Report.

2. They consider that the racial and linguistic differences between the inhabitants of Sind and those of the Presidency of Bombay proper, the geographical isolation of Sind from Bombay, the difficulties of communication between the two, and the insistency with which separation has been advocated, provide an impressive case for the division of Sind from the Bombay Presidency and the creation of a separate Provincial Government there.

3. They observe that the Government of Bombay have pointed out certain administrative difficulties in the way of the separation of Sind, but they do not believe them to be insuperable.

4. They note that no detailed examination of the financial consequences of separation has yet been made. On the figures available to them they are unable to express an opinion on the financial aspects of the question.

The sub-Committee with two dissentients (Dr. Moonje and Raja Narendra Nath) are impressed by the strength of the arguments in favour of separation, and they have come to the conclusion that the principle of separation should be accepted. They therefore recommend that an expert Committee in India should examine carefully the probable revenue and expenditure of a separated Sind and the security of the debt on the Sukkur Barrage, and should also recommend an equitable adjustment of the financial commitments for which Sind may properly be considered liable. If the investigation shows that separation would leave the new Province with a deficit, the sub-Committee think that the representatives of Sind should be asked to show satisfactorily how the deficit would be met before the new Province is set up.

Signed on behalf of the sub-Committee,

RUSSELL.

ST. JAMES'S PALACE,

LONDON,

14th January, 1931.

## RESOLUTION.

**Adopted by Conference unanimously at the final Plenary Session,  
held on 19th January, 1931.**

The Conference sitting in Plenary Session has received and noted the Reports of the nine sub-Committees submitted by the Committee of the whole Conference with comments thereon.

These Reports, provisional though they are, together with the recorded notes attached to them, afford, in the opinion of the Conference, material of the highest value for use in the framing of a Constitution for India, embodying as they do a substantial measure of agreement on the main ground-plan, and many helpful indications of the points of detail to be further pursued. And the Conference feels that arrangements should be made to pursue without interruption the work upon which it has been engaged, including the provision in the Constitution of adequate safeguards for the Mussalmans, Depressed Classes, Sikhs, and all other important minorities.

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## SPEECH DELIVERED BY THE PRIME MINISTER

**at the final Plenary Session of the Conference, held on  
19th January, 1931, at St. James's Palace.**

*Chairman :* Your Highnesses, Ladies and Gentlemen, we have met for the last part of this Conference. You will believe me, I am perfectly certain, when I assure you that never in the whole of my life have I presided over a gathering with more pleasure and more pride than I have presided over this. When I spoke to you at the end of the first part of our proceedings, I assured you that you had come here as our colleagues, that you would have no necessity to persuade us regarding status, because our conception of the Conference, and the conception of my Parliamentary colleagues as well, was that you had come from India to meet us, representing the Legislature of Great Britain, for the purpose of taking counsel together to achieve a common purpose, the self-government of India.

I think I was right. I think you will go back to India, whether you are disappointed as to the work or not, and say "We were met by our British colleagues on terms of hospitable equality; we have put our case before them, and they have listened with a desire to accommodate us; and they have put their case before us, and we assure you that there is so much in their case, so much experience in the working of institutions, so much in relation to the peculiar conditions of India, that they and we must come to agreements upon it."

Now, we have gone as far as we can go at this moment. You have to go back to India ; we have to go back to our own public opinion. You have spoken here subject to reconsideration, subject to the reaction which your public opinion will show to your work ; we, Government and Parliamentary representatives alike, have spoken in the same way, and we must also listen to reactions. We must also explain and expound and defend ; we must also make ourselves the champions of our findings, and do our best to bring our people along with us in our pilgrimage of hope to their conclusion.

What have we been doing ? Pledge after pledge has been given to India that the British Raj was there not for perpetual domination. Why did we put facilities for education at your disposal ? Why did we put in your hands the textbooks from which we draw political inspiration, if we meant that the people of India should for ever be silent and negative subordinates to our rule ? Why have our Queens and our Kings given you pledges ? Why have our Viceroy's given you pledges ? Why has our Parliament given you pledges ?

Why, when the Morley-Minto Reforms were launched, did those Reforms contain not merely machinery of government but a promise of advance ? Why, when the Montagu-Chelmsford Reforms were in due course launched, did they too not only set up a system of government but give you a pledge that something else was to follow ? The Simon Commission itself was appointed, not because there was a Government in office desirous of change ; the Simon Commission was appointed because it was contained as a sacred pledge in the Montagu-Chelmsford Reforms. And if to-day, if during the last ten weeks, we had met you with a uniform *non-possumus*, we would have been untrue to the pledges given to India by the Government for which we are responsible. When the Simon Commission was appointed—a Commission which let me say, because I must say it, has done a work remarkable, conspicuous, and essential—you may agree with it or you may not, but you could not have come to the conclusions with us to which you have come had there been no Simon Commission and had not the Simon Commission opened doors that up to then were closed, and brought ears into action that up to then were deaf. India will never be able to be too grateful or to show too much gratitude for the labours of the men who composed the Simon Commission. When that Commission was appointed, we all agreed—the leaders of the three political parties here agreed—that when the British Government came to consider the Report, came to give it a legal and constitutional value, at some time or other, and somehow, a consultation would have to take place between the representatives of the British Parliament and the representatives of Indian opinion ; and that is why you are here. I regret profoundly that important sections of Indian political activity are not here too.

I am one of those who, I dare say, are regarded by you (and my colleagues too), as belonging to the Left Wing of politics. That is neither here nor there. But do believe me, Left Wing, Centre or Right, I am one of those who believe that he who stirs enmity between peoples is not going to advance liberty in the world. He who spreads suspicion, he who makes co-operation impossible, is not one of those agents for good that the world in its present distracted frame of mind is so much in need of. If anything has been done by you and us here during the last ten weeks to make the youth of India turn to practical problems, turn to the ways of conquest by calm reason, argue thus: "My case is unanswerable, and I am prepared to put it to the test of reason"—if anything that you and I have been able to do here will produce that result, if we do nothing else, we will have made a great contribution to the progressive political development of the Indian nation.

Everyone must honestly admit that situations have arisen, like some of the communal difficulties, which have put obstacles in our way. Now, I want you to take it from me that the attitude of the British Government in such relations is nothing more than an overpowering desire to leave you to settle your own affairs. We are not pro-Hindu we are not pro anything else. If we are animated by anything, it is by the conception of India herself—India a unity, India feeling behind and below and above and beyond her communal differences that mystic bond of unity which the great poets, the great philosophers, and the great religious teachers of India have always felt. Believe me, the British Government has no desire to use your disagreements for any ulterior purpose. Quite the opposite. Our one ambition is that, being in a sense kith and kindred with you, (since history, whether you liked it or whether we liked it, has woven our destinies somehow together), we may use that unity with you in order to pave your way and smooth your path to that much-required internal unity amongst yourselves.

In a few moments I will make further reference to the position of minorities, but I take great pride, and I am sure my colleagues do the same, that, as the result of this Conference and the conversations, both private and public, that have taken place at this Conference, the gap between you is much narrower than it was before, and that the very men, who, feeling that they must be loyal to their community, in sorrow were unable to agree, are inspired more by the feeling of agreement than ever. In the conversations and negotiations that are going to take place they will be moved more by that feeling than ever they have been before.

I am convinced, my friends, that you can settle. And I am also convinced of this—that an imposed agreement might make your constitution unworkable.

I would like now to make one or two observations from the point of view, first of all, of one who has had a good deal of experience in political values—the value of words and the value of provisions.

I have listened to some of my minority friends making their claims. Do remember this. We sitting here are not a Legislature. We sitting here cannot impose pains and penalties. We sitting here can declare rights and hand over to you the political power to see that those rights are enforced and respected. We can put in the constitution that this disability may not be put upon you, that the next disability may not be put upon you. Believe me, after some experience in those things, ultimately it depends upon the intelligence of your people, it depends upon their organisation, it depends upon their strength of will, it depends upon the success of their leadership as to whether words become deeds and declarations actions.

As regards the form of the constitution, all the speakers have said that it has been determined that it is to be a Federation. Your Highnesses, I can add nothing to the tribute that has been paid to you by previous speakers regarding the magnificent part that you have played in making that possible. Before you came the structure of the Indian constitution was in doubt. Many people, as was said this morning, were doubtful as to whether British India alone could bear central authority. You came. You made your declaration. You showed your patriotic interest in Indian affairs and your very wise vision regarding the future, and your words made it possible for us to build up a constitution and to put political weight upon it. That has been a great achievement for which both India and Great Britain are grateful to Your Highnesses. In building up that constitution we have come across some very awkward things. There is a word which, when used in politics—and, some of my friends here also know in economics—I detest, and that is “safeguarding.” That is one of my sins, I suppose. Safeguarding—I do not like the word. To you especially, it is an ugly word; it is a word which quite naturally rouses great suspicions in your hearts. It is a word the aspects and the meaning and the connotation and the associations of which are rather forbidding. Let us apply common sense to it. The safeguards that have been suggested here fall under three categories. One category is a group of reserved powers given to somebody—Governor, Governor-General, the Crown or somebody else, and that category of safeguards you will find either expressed or implicit in every free constitution from the rising sun to the setting sun. That category includes powers which may be put into operation by somebody authorised, somebody in authority, somebody in a distinguished position, in a powerful position in the State, put into operation by him in the event of a breakdown of the ordinary normal operations of Government. And, my Indian colleagues, you can twist and you can turn, you can turn a blind eye to



this and a blind eye to that, you can draft with care and you can hide up what really is the substance of your draft, but if you were drafting your own constitution, without any outside assistance or consultation, you could not draft a constitution without embodying safeguards of that kind in it.

Then there is the second category of safeguards, and there are two sections of that. The first covers guarantees made by the Secretary of State, or made by the British Government or the British Crown, for which we, by virtue of contracts that we have made in your behalf, remain responsible under a new constitution just as under the existing one. The typical instances of that are finance and also the existing Services. Those guarantees, in the interests of India herself, have to be made clear to the world. It is not that we want to interfere ; it is not even that we want the money ; it is that if there were any doubt at all about India shouldering those obligations and responsibilities, the moral status of India would be deteriorated, and, in spite of the materialism of this age, there is far more materialist power resting on moral foundations than many of you wot of. It is to put India in a moral position in the eyes of the rest of the world that that section of reserved subject is required.

Then there is another section. There are matters not solely Indian, owing mainly to India's history, and requiring some time for a change. Do not be afraid of time. I know your patience has been tried ; I know you have waited long ; but, nevertheless, when you are going fastest you have not to be too penurious of time, because that which is built, I do not say unnecessarily slowly, but that which is built calmly and steadily step by step, endures, whilst that which is built in a hurry wastes away and comes to ruin.

Then there is the third category of safeguards relating to communities. Now I repeat what I have said to you so often regarding that : if you fail to agree to set up your own safeguards, to come to a settlement between yourselves regarding those safeguards, the Government will have to provide in the constitution provisions designed to help you ; but do remember the best of all is your own, and we do not propose to lose a grip of you, we do not propose to let you go as though you have said the last word here, because we do not believe you have said the last word.

Communities, small and great, must be safeguarded in the Indian constitution—in the terms of the constitution, but the content of those terms, the details of those terms, a settlement that satisfies those terms—my Indian friends, are you to allow them to pass away from your own hands, and ask anybody outside yourselves to do for you what you declare you are not able to do for yourselves ?

There is one great danger inherent in these safeguards which I will mention, because it is of the utmost importance in the working

of the constitution. Ministers responsible must not shield themselves from taking upon their own shoulders their responsibility when it is unpopular by leaving the Viceroy or the Governor to put into operation his reserved powers.

Moreover, we have this problem in front of us too : in executives, in particular, there must be unified responsibility. I am not going to push that observation to any more pointed conclusion, but the great task in forming an Executive is not so much to give it responsibility (which is the peculiar characteristic of legislatures) but it is to secure for the Executive the confidence of the Legislature, together with its own united working in policy.

Now, as regards the future, we have before us the Reports of the various sub-Committees, all of them noted, together with your observations upon them. The Government proposes at once to study these very carefully in order to face the problems which they present to it. We have, for instance, sub-Committee No. 1, the sub-Committee presided over with such conspicuous ability by the Lord Chancellor, who, by that one act of service has won for himself a great place in your hearts. That Report, rough wood, if I may say so, wood of very varying lengths, full of knots, full of difficulties in handling and using, must be planed and fitted into a logical and consistent structure.

Sub-Committee No. II has endorsed the principle of fully representative government in the Governors' Provinces, subject to the retention by the Governors of certain powers which were widely agreed to be necessary at this stage.

The Minorities sub-Committee I have already referred to. You have not heard the last of us regarding that. As to the sub-Committee on Burma, its findings have been noted, and the Government will pursue the decisions of that sub-Committee ; separating Burma and making the necessary enquiries as to the conditions upon which the separation is to take place.

With regard to the North-West Frontier Province, which was the subject of sub-Committee No. V, that sub-Committee has recommended the elevation of its status to that of a Governor's Province, with a constitution analagous to that of other Governors' Provinces under the new regime, but with the necessary modifications and adaptations to suit the peculiar local conditions and requirements, and with the necessary financial adjustments with the Central Government.

Sub-Committee No. VI, the Franchise sub-Committee, recommended the setting-up of a Committee to work out specified problems, and that Committee will be set up.

Sub-Committee No. VII dealt with Defence. That will be proceeded with, and if it is possible to put into operation, without the delay that will be required in the building up of the full constitution, some of its parts by administration, we shall get into touch with the Government of India and see how that can be done. I refer to such things, for instance, as the creation of a Military Sandhurst in India.

Sub-Committee No. VIII dealt with the Services, and affirmed the necessity of continuing to existing members of the Services under the new constitution the guarantees which the present Act and the Rules framed under it give them, and has explored the position as regards the future.

Sub-Committee No. IX dealt with Sind, and adopted with two dissentients the principle that Sind should be formed into a separate Province, but left its feasibility for future decision after enquiry by an expert Committee into the financial problems involved. That also will be undertaken.

I need not go through any more details than that. These pledges I give you, these statements I make, relate to administration and to the setting up merely of the Committees.

One or two of you who have had large experience in administration have pressed upon us that under the existing Government of India Act some things of importance could be done by administration, to bring Indian administrative action more into accord with the declarations made here than is the case to-day. We cannot commit ourselves as to whether that is so or not, but we propose, in consultation with Indians of administrative experience, to explore that, and as the result of the exploration we shall take action or otherwise.

At this point I may turn to the very moving appeal made by Sir Tej Bahadur Sapru to me this morning regarding an amnesty. It was a wise and a moving appeal which, I can assure the Conference, lodges very naturally in my own heart. I should like this Conference to open a new chapter in the relations of India and ourselves. If Sir Tej Bahadur Sapru's appeal to India, as well as to us is responded to in India, and civil quiet is proclaimed and assured, His Majesty's Government will certainly not be backward in responding to his plea, which is endorsed by so many of his colleagues here.

Now that brings me to the question of what is to be done to complete our labours. We have agreed upon certain features of the constitution, but the successful launching of the constitution depends still upon very careful study of conditions and structure. I think it was Lord Peel who said that we were not so short-sighted and so self-centred as to be under the impression that the only successful constitutional machinery is that under which we work ourselves. As a matter of fact, if you ask my opinion, I can give you some very bad results of its working! Therefore it is certainly not perfect. We have got the United States type; we have a type which has

been used in Japan, and which is of very great interest, especially in some of its aspects, if not in all. We have a type such as was used in Germany before the war ; we have got French methods, and so on ; and in order that we may have all the world experience of working Legislatures elected in different ways and composed in different ways, we shall study those. We have, as a matter of fact, studied them, and we hope to get from that study ideas, suggestions, plans, from which the new Indian Constitution can be benefited and made workable. Some conditions that have been attached to the working of the Constitution have been practically agreed upon, they have become of the nature of problems that can quite easily be settled by a chairman's ruling, or by a government decision, involving no principle and creating no friction. Others still require work, especially the open questions and the notes of dissent made to the Report of Committee No. 1. There is, for instance, the place of the States in the federation ; the provision which must be made that the States in everything which they have not agreed to hand over to the federal authority have direct contact with the Crown. There is the composition of the Legislatures and Executives and some problems regarding practical working. There are the problems of communities and the various details of safeguarding. Now, I think I am right that so much work has been done upon these questions that the time has come for us to begin to try to draft something, because it is only when you begin to draft that you discover what you have overlooked and what you have not properly considered. Now, this work must not be left to the bureaucracy in either country, but must be conducted on the direct responsibility of the politician aided and guided by those admirably equipped servants of the State which both our civil services contain. I hope, for instance, that in the further negotiations and explorations we are going to have the great pleasure of continuing the parliamentary unity which has been maintained with so much good feeling during the last ten weeks in the work of this Conference.

There is another important thing. One of the secrets of our success thus far—in fact, I am not at all sure it is not the main secret—is the personal contacts that we have been able to establish and to keep going. I have had a good deal of experience of these Conferences. One week of a Conference produces more good than six months of diplomatic correspondence. Let us get down to facts face to face ; let us sit round the table ; let each of us state our claims, state our hopes, state our fears, state our expectations ; let each of us be candid one to another, and, face to face there is an enormously better chance of an understanding and an agreement than under any other circumstances. I wish to continue that condition. There are practical difficulties, as you know. Much work has still to be done in India of an educational and explanatory character.

At this minute, after all the heavy work we have had to undertake without remission during the whole day, and very often far into the night, you will understand me when I say that I am not in a position at this moment to tell you precisely the plan by which those negotiations are going to be continued and those personal contacts to be maintained. I mention that because I know that some of my friends place great store upon those points, and I want to assure you before you go home that I thoroughly agree with you regarding them.

I propose to confer with the new Viceroy at once, who is arriving here in a few days, and tell him what has been done—my colleagues and myself, and I hope in this that I may include my Parliamentary colleagues as well as my Governmental colleagues—and agree to a plan which will satisfy the requirements which I have just stated.

At this point I will read to you the declaration which I am authorised to make by my colleagues of the Government.

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The view of His Majesty's Government is that responsibility for the government of India should be placed upon Legislatures, Central and Provincial, with such provisions as may be necessary to guarantee, during a period of transition the observance of certain obligations and to meet other special circumstances, and also with such guarantees as are required by minorities to protect their political liberties and rights.

In such statutory safeguards as may be made for meeting the needs of the transitional period, it will be a primary concern of His Majesty's Government to see that the reserved powers are so framed and exercised as not to prejudice the advance of India through the new constitution to full responsibility for her own government.

His Majesty's Government, whilst making this declaration, is aware that some of the conditions which are essential to the working of such a constitution as is contemplated, have not been finally settled, but it believes that as the result of the work done here, they have been brought to a point which encourages the hope that further negotiations, after this declaration, will be successful.

His Majesty's Government has taken note of the fact that the deliberations of the Conference have proceeded on the basis, accepted by all parties, that the Central Government should be a Federation of all-India, embracing both the Indian States and British India in a bi-cameral legislature. The precise form and structure of the new Federal Government must be determined after further discussion with the Princes and representatives of British India. The range of

subjects to be committed to it will also require further discussion, because the Federal Government will have authority only in such matters concerning the States as will be ceded by their Rulers in agreements made by them on entering into Federation. The connection of the States with the Federation will remain subject to the basic principle that in regard to all matters not ceded by them to the Federation their relations will be with the Crown acting through the agency of the Viceroy.

With a Legislature constituted on a federal basis, His Majesty's Government will be prepared to recognise the principle of the responsibility of the Executive to the Legislature.

Under existing conditions the subjects of Defence and External Affairs will be reserved to the Governor-General, and arrangements will be made to place in his hands the powers necessary for the administration of those subjects. Moreover, as the Governor-General must, as a last resort, be able in an emergency to maintain the tranquillity of the State, and must similarly be responsible for the observance of the constitutional rights of Minorities, he must be granted the necessary powers for these purposes.

As regards finance, the transfer of financial responsibility must necessarily be subject to such conditions as will ensure the fulfilment of the obligations incurred under the authority of the Secretary of State and the maintenance unimpaired of the financial stability and credit of India. The Report of the Federal Structure Committee indicates some ways of dealing with this subject including a Reserve Bank, the service of loans, and Exchange policy, which, in the view of His Majesty's Government, will have to be provided for somehow in the new constitution. It is of vital interest to all parties in India to accept these provisions, to maintain financial confidence. Subject to these provisions the Indian Government would have full financial responsibility for the methods of raising revenue and for the control of expenditure on non-reserved services.

This will mean that under existing conditions the Central Legislature and Executive will have some features of dualism which will have to be fitted into the constitutional structure.

The provision of reserved powers is necessary in the circumstances and some such reservation has indeed been incidental to the development of most free constitutions. But every care must be taken to prevent conditions arising which will necessitate their use. It is, for instance, undesirable that Ministers should trust to the special powers of the Governor-General as a means of avoiding responsibilities which are properly their own, thus defeating the development of responsible Government by bringing into use powers meant to lie in reserve and in the background. Let there be no mistake about that.

The Governors' Provinces will be constituted on a basis of full responsibility. Their Ministries will be taken from the Legislature and will be jointly responsible to it. The range of Provincial subjects will be so defined as to give them the greatest possible measure of self-government. The authority of the Federal Government will be limited to provisions required to secure its administration of Federal subjects, and so discharge its responsibility for subjects defined in the constitution as of all-India concern.

There will be reserved to the Governor only that minimum of special powers which is required in order to secure, in exceptional circumstances, the preservation of tranquillity, and to guarantee the maintenance of rights provided by Statute for the Public Services and minorities.

Finally, His Majesty's Government considers that the institution in the Provinces of responsible government requires both that the Legislatures should be enlarged, and that they should be based on a more liberal franchise.

In framing the Constitution His Majesty's Government considers that it will be its duty to insert provisions guaranteeing to the various minorities, in addition to political representation, that differences of religion, race, sect or caste, shall not themselves constitute civic disabilities.

In the opinion of His Majesty's Government it is the duty of the communities to come to an agreement amongst themselves on the points raised by the Minorities sub-Committee but not settled there. During the continuing negotiations such an agreement ought to be reached and the Government will continue to render what good offices it can to help to secure that end, as it is anxious not only that no delay should take place in putting the new Constitution into operation, but that it should start with the goodwill and confidence of all the communities concerned.

The various sub-Committees which have been studying the more important principles of a Constitution which would meet Indian conditions have surveyed a considerable part of the structure in detail and the still unsettled points have been advanced a good way to an agreement. His Majesty's Government, however, in view of the character of the Conference and of the limited time at its disposal in London, has deemed it advisable to suspend its work at this point, so that Indian opinion may be consulted upon the work done, and expedients considered for overcoming the difficulties which have been raised. His Majesty's Government will consider, without delay, a plan by which our co-operation may be continued so that the results of our completed work may be seen in a new Indian Constitution. If, in the meantime, there is a response to the Viceroy's appeal to those engaged at present in civil disobedience, and others wish to co-operate on the general lines of this declaration, steps will be taken to enlist their services.

I must convey to you all on behalf of the Government its hearty appreciation of the services you have rendered not only to India but to this country, by coming here and engaging in these personal negotiations. Personal contact is the best way of removing those unfortunate differences and misunderstandings which too many people on both sides have been engendering between us in recent years. A mutual understanding of intention and difficulty, gained under such conditions as have prevailed here, is by far the best way for discovering ways and means of settling differences and satisfying claims. His Majesty's Government will strive to secure such an amount of agreement as will enable the new Constitution to be passed through the British Parliament and to be put into operation with the active goodwill of the people of both countries.

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And now, my friends, we go our various ways. Our ten weeks of valuable co-operation and pleasant companionship and friendship are ended.

Sir Tej Bahadur Sapru said, I think, that he hoped he was leaving England with friendly memories behind him. I can assure you that that is not only true of Sir Tej, it is true of you all, and I can only hope that the memories you are taking away of us are equally pleasant, equally happy, and will be held equally precious to you as your memories will be to us.

I pray that our contacts and our negotiations may be continued though "oceans divide us and a realm of seas." I hope you will go back and tell your co-patriots what you have found. You may have to disagree sometimes and somewhere with the letter of what has been written. I hope you will never have to disagree with the spirit in which you have been met.

Finally, I hope, and I trust, and I pray that by our labours together India will come to possess the only thing which she now lacks to give her the status of a Dominion amongst the British Commonwealth of Nations—what she now lacks for that—the responsibilities and the cares, the burdens and the difficulties, but the pride and the honour of responsible self-government.





# Indian Round Table Conference

(7th September—1st December, 1931.)

Reports of Committees.



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**\*STATEMENT MADE BY THE PRIME MINISTER TO THE  
CONFERENCE AT THE CLOSE OF ITS SECOND SESSION,  
1st DECEMBER, 1931.**

1. We have now had two sessions of the Round Table Conference, and the time has come to survey the important work which has been done, first of all, in setting out the problems which in the task of Indian constitution-building we have to surmount, and then in trying to find how to surmount them. The reports presented to us now bring our co-operation to the end of another stage, and we must pause and study what has been done and the obstacles which we have encountered, and the best ways and means of bringing our work to a successful end as rapidly as possible. I regard our discussions and our personal contacts here as of the highest value, and make bold to say that they have raised the problem of Indian constitutional reform far above the mere technicalities of constitution-making ; for we have won that confidence in, and respect for, each other which has made the task one of helpful political co-operation. That, I am confident, will continue to the end. By co-operation alone can we succeed.

2. At the beginning of the year I made a declaration of the policy of the then Government, and I am authorised by the present one to give you and India a specific assurance that it remains their policy. I shall repeat the salient sentences of that declaration :—

“ The view of His Majesty’s Government is that responsibility for the government of India should be placed upon Legislatures, Central and Provincial, with such provisions as may be necessary to guarantee, during a period of transition, the observance of certain obligations and to meet other special circumstances, and also with such guarantees as are required by minorities to protect their political liberties and rights.

In such statutory safeguards as may be made for meeting the needs of the transitional period, it will be a primary concern of His Majesty’s Government to see that the reserved powers are so framed and exercised as not to prejudice the advance of India through the new constitution to full responsibility for her own government.”

3. With regard to the Central Government, I made it plain that, subject to defined conditions, His Majesty’s late Government were prepared to recognise the principle of the responsibility of the Executive to the Legislature, if both were constituted on an all-India federal basis. The principle of responsibility was to be subject to the qualification that, in existing circumstances, Defence and External Affairs must be reserved to the Governor-General, and that,

in regard to finance such conditions must apply as would ensure the fulfilment of the obligations incurred under the authority of the Secretary of State, and the maintenance unimpaired of the financial stability and credit of India.

4. Finally, it was our view that the Governor-General must be granted the necessary powers to enable him to fulfil his responsibility for securing the observance of the constitutional rights of Minorities, and for ultimately maintaining the tranquillity of the State.

5. These were, in broad outline, the features of the new constitution for India as contemplated by His Majesty's Government at the end of the last Conference.

6. As I say, my colleagues in His Majesty's present Government fully accept that statement of January last as representing their own policy. In particular, they desire to reaffirm their belief in an all-India Federation as offering the only hopeful solution of India's constitutional problem. They intend to pursue this plan unswervingly and to do their utmost to surmount the difficulties which now stand in the way of its realisation. In order to give this declaration the fullest authority, the statement which I am now making to you will be circulated to-day as a White Paper to both Houses of Parliament, and the Government will ask Parliament to approve it this week.

7. The discussions which have been proceeding during the past two months have been of value in showing us more precisely the problems we have to solve, and have advanced us towards the solution of some of them. But they have also made it plain that others still require further examination and co-operative consideration. There is still difference of opinion, for instance, as to the composition and powers of the Federal Legislature, and I regret that owing to the absence of a settlement of the key question of how to safeguard the Minorities under a responsible Central Government, the Conference has been unable to discuss effectively the nature of the Federal Executive and its relationship with the Legislature. Again, it has not yet been possible for the States to settle amongst themselves their place in the Federation and their mutual relationships within it. Our common purpose will not be advanced by ignoring these facts, nor by assuming that the difficulties they present will somehow solve themselves. Further thought, discussion and reconciliation of different interests and points of view are still required before we can translate broad general aims into the detailed machinery of a workable constitution. I am not saying this to indicate impossibility, nor to foreshadow any pause in our work. I only wish to remind you that we have put our hands to a task

which demands alike from His Majesty's Government and from the leaders of Indian opinion care, courage and time, lest when the work is done it may bring confusion and disappointment, and instead of opening the way to political progress may effectively bar it. We must build like good craftsmen, well and truly ; our duty to India demands that from all of us.

8. What then is the general position in which we find ourselves as regards a practical programme for the advancement of our common aims ? I want no more general declarations which carry us no further in our work. The declarations already made and repeated to-day are enough to give confidence in the purpose of the Government and to provide work for the Committees to which I shall refer. I want to keep to business. The great idea of all-India Federation still holds the field. The principle of a responsible Federal Government, subject to certain reservations and safeguards through a transition period, remains unchanged. And we are all agreed that the Governors' Provinces of the future are to be responsibly governed units, enjoying the greatest possible measure of freedom from outside interference and dictation in carrying out their own policies in their own sphere.

9. I should explain at once in connection with that last point that we contemplate as one feature of the new order that the North-West Frontier Province should be constituted a Governor's Province, of the same status as other Governors' Provinces, but with due regard to the necessary requirements of the Frontier, and that, as in all other Governors' Provinces, the powers entrusted to the Governor to safeguard the safety and tranquillity of the Province shall be real and effective.

10. His Majesty's Government also accept in principle the proposition which was endorsed at the last Conference that Sind should be constituted a separate Province, if satisfactory means of financing it can be found. We therefore intend to ask the Government of India to arrange for a Conference with representatives of Sind for the purpose of trying to overcome the difficulties disclosed by the report of the expert financial investigation which has just been completed.

11. But I have digressed from the question of a programme in the light of the accepted factors—Federation as the aim and self-governing Provinces and the Indian States as its basis. As I have said, our discussions have made it clear to all of us that Federation cannot be achieved in a month or two. There is a mass of difficult constructive work still to be done, and there are important agreements to be sought by which the structure must be shaped and cemented. It is equally plain that the framing of a scheme of



responsible government for the Provinces would be a simpler task which could be more speedily accomplished. The adjustments and modifications of the powers now exercised by the Central Government which would obviously have to be made in order to give real self-government to the Provinces should raise no insuperable difficulties. It has, therefore, been pressed upon the Government that the surest and speediest route to Federation would be to get these measures in train forthwith, and not to delay the assumption of full responsibility by the Provinces a day longer than is necessary. But it is clear that a partial advance does not commend itself to you. You have indicated your desire that no change should be made in the Constitution which is not effected by one all-embracing Statute covering the whole field, and His Majesty's Government have no intention of urging a responsibility which, for whatever reasons, is considered at the moment premature or ill-advised. It may be that opinion and circumstances will change, and it is not necessary here and now to take any irrevocable decision. We intend, and have always intended, to press on with all possible despatch with the federal plan. It would clearly be indefensible, however, to allow the present decision to stand in the way of the earliest possible constitutional advance in the North-West Frontier Province. We intend, therefore, to take the necessary steps as soon as may be to apply to the North-West Frontier Province, until the new constitutions are established, the provisions of the present Act relating to Governors' Provinces.

12. We must all, however, realise that there stands in the way of progress, whether for the Provinces or the Centre, that formidable obstacle, the communal deadlock. I have never concealed from you my conviction that this is above all others a problem for you to settle by agreement amongst yourselves. The first of the privileges and the burdens of a self-governing people is to agree how the democratic principle of representation is to be applied—or, in other words, who are to be represented and how it is to be done. This Conference has twice essayed this task; twice it has failed. I cannot believe that you will demand that we shall accept these failures as final and conclusive.

13. But time presses. We shall soon find that our endeavours to proceed with our plans are held up (indeed they have been held up already) if you cannot present us with a settlement acceptable to all parties as the foundations upon which to build. In that event His Majesty's Government would be compelled to apply a provisional scheme, for they are determined that even this disability shall not be permitted to be a bar to progress. This would mean that His Majesty's Government would have to settle for you, not only your problems of representation, but also to decide as wisely and justly as possible what checks and balances the Constitution is

to contain to protect minorities from an unrestricted and tyrannical use of the democratic principle expressing itself solely through majority power. I desire to warn you that if the Government have to supply even temporarily this part of your Constitution which you are unable to supply for yourselves, and though it will be our care to provide the most ample safeguards for minorities so that none of them need feel that they have been neglected, it will not be a satisfactory way of dealing with this problem. Let me also warn you that if you cannot come to an agreement on this amongst yourselves, it will add considerably to the difficulties of any Government here which shares our views of an Indian Constitution, and it will detract from the place which that Constitution will occupy amongst those of other nations. I therefore beg of you once more to take further opportunities to meet together and present us with an agreement.

14. We intend to go ahead. We have now brought our business down to specific problems which require close and intimate consideration, first of all by bodies which are really committees and not unwieldy conferences, and we must now set up machinery to do this kind of work. As that is being done and conclusions presented, we must be able to continue consultations with you. I propose, therefore, with your consent, to nominate in due course a small representative committee—a working committee—of this Conference which will remain in being in India, with which, through the Viceroy, we can keep in effective touch. I cannot here and now specify precisely how this committee can best be employed. This is a matter which must be worked out and must to some extent depend on the reports of the committees we propose to set up. But in the end, we shall have to meet again for a final review of the whole scheme.

15. It is our intention to set up at once the committees whose appointment the Conference has recommended ; (a) to investigate and advise on the revision of the Franchise and constituencies ; (b) to put to the test of detailed budgetary facts and figures the recommendations of the Federal Finance sub-Committee ; and (c) to explore more fully the specific financial problems arising in connection with certain individual States. We intend that these committees shall be at work in India under the chairmanship of distinguished public men from this country as early in the New Year as possible. The views expressed by you here on the other outstanding federal problems will be taken into consideration at once, and the necessary steps taken to get better understanding and agreement upon them.

16. His Majesty's Government have also taken note of the suggestion made in para. 26 of the Federal Structure Committee's Third Report, with the object of facilitating an early decision on

the distribution among the States of whatever quota may be agreed upon for their representation in the Legislature. It follows from what I have already said that they share the general desire for an early agreement on this question among the States, and His Majesty's Government intend to afford the Princes all possible assistance by way of advice in this matter. If it appears to the Government that there is likely to be undue delay in their reaching agreement amongst themselves, the Government will take such steps as seem helpful to obtain a working settlement.

17. I have already alluded to another matter to which you have given ample evidence that you attach great importance, and to which you will expect me to refer. A decision of the communal problem which provides only for representation of the communities in the Legislatures is not enough to secure what I may call "natural rights." When such provisions have been made, minorities will still remain minorities, and the constitution must therefore contain provisions which will give all creeds and classes a due sense of security that the principle of majority government is not to be employed to their moral or material disadvantage in the body politic. The Government cannot undertake here and now to specify in detail what those provisions should be. Their form and scope will need the most anxious and careful consideration with a view to ensuring on the one hand that they are reasonably adequate for their purpose, and on the other that they do not encroach, to an extent which amounts to stultification, upon the principles of representative responsible government. In this matter the Committee of Consultation should play an important part for, here also, just as in regard to the method and proportions of electoral representation, it is vital to the success of the new constitution that it should be framed on a basis of mutual agreement.

18. Now, once again we must bid each other good-bye. Great strides have been made, greater, I am sure you will find, than the most optimistic think. I was glad to hear in the course of these debates speaker after speaker taking that view. It is the true view. We have met with obstacles, but one of those optimists to whom humanity owes most of its progress said that "obstacles were made to be overcome." In that buoyancy of spirit and the goodwill which comes from it, let us go on with our task. My fairly wide experience of Conferences like this is that the road to agreements is very broken and littered with obstructions to begin with, and the first stages often fill one with despair. But quite suddenly, and generally unexpectedly, the way smoothes itself out and the end is happily reached. I not only pray that such may be our experience, but I assure you that the Government will strive unceasingly to secure such a successful termination to our mutual labours.

**FEDERAL STRUCTURE COMMITTEE.**

(Second Session.)

**COMPOSITION :**

- Lord Sankey (*Chairman*).  
 \*Mr. Wedgwood Benn.  
 \*Major W. E. Elliot.  
 \*Viscount Hailsham.  
   Sir Samuel Hoare.  
   Mr. H. B. Lees-Smith.  
   The Marquess of Lothian.  
   The Earl Peel.  
 \*Mr. F. W. Pethick-Lawrence.  
   The Marquess of Reading.  
 \*H.H. The Maharaja Gaekwar of Baroda.  
   H.H. The Nawab of Bhopal.  
   H.H. The Maharaja of Bikaner.  
 \*H.H. The Maharaj Rana of Dholpur.  
 \*H.H. The Maharaja of Rewa.  
   H.H. The Chief Sahib of Sangli.  
   Sir Akbar Hydari.  
   Sir Mirza Ismail.  
   Colonel K. N. Haksar.  
 \*Dr. B. R. Ambedkar.  
 \*Sir Maneckjee B. Dadabhoy.  
 \*Mr. M. K. Gandhi.  
 \*Mr. A. R. Iyengar.  
   Mr. M. R. Jayakar.  
   Mr. M. A. Jinnah.  
   Mr. T. F. Gavin Jones.  
 \*Mr. N. M. Joshi.  
 \*Pandit Madan Mohan Malaviya.  
 \*Sir Provash Chunder Mitter.  
   Diwan Bahadur Ramaswami Mudaliyar.  
   Sir Sayed Sultan Ahmed.  
   Sir Tej Bahadur Sapru.  
   Mr. Srinivasa Sastri.  
 \*Dr. Shafa'at Ahmad Khan.  
   Sir Muhammad Shafi.  
 \*Mrs. Subbarayan.  
 \*Sir Purshotamdas Thakurdas.  
   Sardar Ujjal Singh.  
 \*Mr. Zafrullah Khan.

\* Denotes new members.

Sir Manubhai Mehta acted as substitute in the absence of H.H. The Maharaja of Bikaner.

Lord Snell acted as substitute in the absence of Mr. Wedgwood Benn, Mr. Lees-Smith and Mr. Pethick-Lawrence.

Rao Bahadur Krishnama Chari acted as substitute in the absence of H.H. The Maharaja Gaekwar of Baroda.

Mr. E. C. Benthall acted as substitute in the absence of Mr. Gavin Jones.

### THIRD REPORT OF FEDERAL STRUCTURE COMMITTEE.

#### INTRODUCTORY.

1. The Committee's task at the Second Session of the Conference was to continue their discussions at the point at which they were left by their Report of the 13th January, 1931, and by the Prime Minister's Declaration of the 19th January, and to endeavour, so far as possible, to fill in the outlines of the Federal Constitution for Greater India which was sketched in those documents.

2. In approaching this task, the Committee have been assisted by colleagues who did not share in their earlier deliberations. In this connexion it will be remembered that, in virtue of an agreement recorded in March last, the Indian National Congress decided to participate in their labours.

3. Since January last, there has been much public discussion of the constitutional proposals which emerged from the last Session of the Conference. The Committee resumed their deliberations with the knowledge of this public discussion, and with the conviction that it is in a Federation of Provinces and States that the solution of the problem of India's constitutional future is to be found.

4. A further examination of the problem has confirmed them in the belief that by no other line of development can the ideal in view be fully realised. For this purpose it is essential that the "India" of the future should include, along with British India, that "Indian India" which, if Burma is excluded, embraces nearly half of the area and nearly one-fourth of the population of the country—an area and population, moreover, which are not self-contained and apart geographically or racially, but are part and parcel of the country's fabric; and its constitution must be drawn on lines which will provide a satisfactory solution for the problem of the existence, side by side, of future self-governing Provinces and of States with widely varying polities and different degrees of internal sovereignty, whose fortunes are, and must continue to be, closely interwoven.

5. The Committee rejoice to think that the Princes, while naturally determined to maintain their internal sovereignty, are prepared, and indeed anxious, to share with the British Indian Provinces in directing the common affairs of India.

6. It will be easy for the constitutional purist, citing federal systems in widely different countries, to point out alleged anomalies in the plans which the Committee have to propose to this great end; but the Committee, as they stated in their First Report, are not dismayed by this reflexion. Their proposals are the outcome of an anxious attempt to understand, to give full weight to, and to reconcile, different interests.

7. The Committee have taken into account :—

- (a) The widespread desire in India for constitutional advance ;
- (b) the natural desire of the Indian States to conserve their integrity ;
- (c) the indisputable claims of minorities to fair treatment ;
- (d) the obligations and responsibilities of His Majesty's Government ; and
- (e) the necessity, paramount at all times, but above all at a transitional period like the present, when the economic foundations of the modern world seem weakened, of ensuring the financial credit and the stability of Government itself.

8. Without a spirit of compromise, such diverging interests cannot be reconciled ; but compromise inevitably produces solutions which to some, if not to all, of the parties, may involve the sacrifice of principle.

9. It follows that, in many cases, many members of the Committee would have preferred some solution other than that which appears as their joint recommendation. But recognising that the basic aim of this Conference is, by the pooling of ideas and by the willingness to forego for the common good individual desires, to attain the greatest measure of agreement ; above all, recognising that the time has come for definite conclusions, the Committee are prepared to endorse the conclusions set out in this Report.

## THE STRUCTURE, SIZE, AND COMPOSITION OF THE FEDERAL LEGISLATURE.

10. The Committee expressed the view in their previous Reports that the legislative organ of the Indian Federation should consist of two Chambers, which will be empowered to deal with the whole range of the activities of the Federation, both those which affect British India only, and those which affect all federal territory. In the course of their discussions, preferences were expressed in some quarters for a unicameral Legislature, on considerations alike of simplicity, efficiency and economy ; while some members urged that, having regard to the nature of the matters to be dealt with by the Federation, a single small Federal Chamber, which would adequately reflect the views of the governments of the constituent Units, would be the right solution of the problem.

11. At a later stage, again, the Committee were placed in possession of proposals which they have not been able fully to discuss, but which clearly demand further consideration, though the Committee fully realise that the adoption of either of these plans would involve material modification of the framework hitherto contemplated.

12. One of these plans would substitute for the Upper Chamber a small body consisting of nominated delegates of the governments of the federating Units, which would have the right of initiating legislation and would be empowered to exercise a suspensory veto over the measures passed by the elected Chamber. This body would also have the right to express its opinion upon all measures of the Federal Government before they were laid before the elected Chamber. The authors of this plan also contemplate the possession by this body of certain advisory functions in the administrative sphere.

13. The second of these plans contemplates the confederation of the States into a single collective body for the purpose of federating with the British Indian Provinces. Its supporters would prefer a single Federal Chamber in which the representation of the Indian States collectively should be 50 per cent, the representatives being selected by an electoral college consisting of the federated States as a whole. In the event of a decision in favour of a bicameral Legislature, 50 per cent. of the seats in the Upper Chamber would be reserved for the States, their representation in the Lower Chamber being on population basis.

14. Upon the assumption, however, that the Legislature is to be bicameral, a variety of factors must be taken into account in determining the size of the Chambers. Cogent theoretical arguments can be adduced (and were in fact advanced by some Delegates) in support of the view that, for a country of the size and population of India, a Legislature consisting of from 600 to 700 members for the Lower Chamber, and from 400 to 500 for the Upper, could not be regarded as excessive in size, and that smaller numbers would fail to give adequate representation to the many interests which might reasonably claim a place in it. On the other hand, arguments no less forcible were adduced in favour of the view that Chambers exceeding 100 and 250 respectively might prove ineffective organs of business. We have given these divergent views the best consideration of which we are capable, and recommend as the result that the Chambers should consist, as near as may be, of 200 and 300 members respectively, in which the allotment of seats to the States should be in the proportion of 40 per cent. (or approximately 80 seats) in the Upper Chamber, and  $33\frac{1}{3}$  per cent. (or approximately 100 seats) in the Lower.

The Muslim delegation and some others are unable to subscribe to the whole of this paragraph, as they are opposed to the principle of giving weightage to the representation, in the Legislature, of the States in excess of their population proportion.

15. This latter recommendation is, of course, based on the assumption that the whole body of the States will eventually adhere to the Federation. The view was strongly expressed that, in the case of

States not adhering at the outset, seats allotted to them as the result of the procedure contemplated in paragraph 26 should remain unfilled pending their adherence. But it was also urged that this might lead to a situation under which States adhering at the outset would find their total voting strength in the Legislature so small as to be inconsistent with their position as representing one of the main constituent elements in the Federation. Some members of the Committee have stated it as their opinion that, in the event of the original adherents not forming a substantial proportion of "Indian India," some method should be devised by which their voting strength would be temporarily augmented pending the accession of other States. But the whole Committee hope that the contingency which might necessitate such an augmentation will not arise.

16. In any event, difficulty might arise in regard to States which are grouped for the purpose of deputing a representative ; but it would be premature to attempt to suggest the best solution for such problems until the measure of adherence by "grouped " States can be fairly accurately ascertained or foreseen. The Committee accordingly content themselves with expressing the hope that the measure of adherence in each group will be sufficiently great to justify the filling of the seat allotted thereto by the nominations of the adhering States. Should the system of grouping be such as to admit of the allotment of two or more seats to one group, difficulties of this order would be more easy of solution.

17. The Committee recommend that the 200 members of the Upper House should be chosen in the main to represent the component Units—the Provinces of British India and the States—and that the representatives of the British Indian Provinces should be elected by the Provincial Legislatures by the single transferable vote. Candidature for the Federal Legislature should not, of course, be restricted to members of a Provincial Legislature, though such persons should be eligible if otherwise qualified. But no person should be a member of both a Provincial and the Federal Legislature.

18. In the case of those States which secure individual representation, their representatives will be nominated by the Governments of the States. In the case of those States, however, (and there will necessarily be many such) to which separate individual representation cannot be accorded, the privilege of nomination will have to be shared in some manner which it will be easier to determine when the various groups have been constituted—a process which will, of course, entail a detailed survey of local and regional circumstances.

19. For the Lower Chamber, the Committee consider that the selection of the British Indian representatives should be by election otherwise than through the agency either of the Provincial Legislature



or of any existing local self-government bodies.\* Most members consider that election should be by territorial constituencies, consisting of qualified voters who will cast their votes directly for the candidate of their choice. Others have advocated some method whereby some of the obvious difficulties which must confront a candidate, in canvassing and maintaining contact with so large an area as the average constituency will involve, may be obviated.

20. The actual framing of the constituencies must necessarily depend largely upon the detailed arrangements to be made for the revision of the existing franchise—a task which is to be undertaken by a special Franchise Committee. The Committee therefore recommend that this body should be charged also with the duty of making proposals for the constituencies to return the British Indian members of the Lower Chamber of the Federal Legislature, and that it should explore fully the alternatives of direct and indirect election, indicated in the preceding paragraph, in the light of the practical conditions which will be presented by the size of constituencies, their populations and the proportion of this population to be enfranchised. The area and population of British India, excluding Burma, being, in round figures, 800,000 square miles and 255 millions respectively, and the seats in the Lower Chamber available for representatives of that area, on the Committee's proposals, being approximately 200, it follows that the average area of a constituency would be approximately 4,000 square miles, and the average population per seat some  $1\frac{1}{4}$  millions. And while, in many cases, the former of these figures would obviously be reduced by the natural grouping of the population in urban areas, the difficulties presented by electoral areas and populations of this size would, of course, be accentuated by the existence of separate communal electorates. It may well be that, while no difficulty will be experienced in providing for direct election in urban areas, some method of indirect election may prove desirable for rural areas.

21. As regards the apportionment of the British Indian seats in both Chambers to the Provinces *inter se*, the Committee recognise that the population ratio, which they were disposed to recommend in their previous Report as the guiding principle, would not produce a satisfactory result unless it were tempered by other considerations. To take only one instance, it would immediately reduce the Bombay Presidency—a Province of great historical and commercial importance, which has for many years enjoyed approximately equal representation in the Central Legislature with the other two Presidencies and the United Provinces—to less than half the representation these latter will secure.

22. For the Upper Chamber, which will represent in the main the Units as such, the Committee think that the guiding principle should be a reasonable approximation to equality of representation for each

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\* This expression is not intended to exclude such bodies as Village Boards or Village Panchayats.

Unit. Absolute equality, having regard to the great variations in size and population between the Provinces, would obviously be inequitable. The problem is a difficult and complicated one, involving the careful assessment of local factors, which is beyond the competence of this Committee. But the suggestion has been made that a possible solution might, for example, be to assign to each of the Provinces which exceeds 20 millions in population—namely, Bengal, Madras, Bombay, the United Provinces, the Punjab and Bihar and Orissa—an equal number of seats, say, 17 ; to the Central Provinces (if it included Berar) and Assam, say, 7 and 5 seats respectively ; to the North-West Frontier Province, 2 seats ; and to Delhi, Ajmer, Coorg and British Baluchistan, 1 seat each.

23. In the Lower Chamber, representing as it will primarily the population of the federated area, we consider that the distribution should tally as closely as possible with the population ratio, but that some adjustment will be required in recognition of the commercial importance of the Bombay Presidency and of the general importance in the body politic of the Punjab, which it will be generally conceded is not strictly commensurate with its population as compared with that of other Provinces. We suggest that this adjustment might be secured in the case of Bombay, to some extent at all events, by adequate weightage of the special representation which we have recommended for Indian and European Commerce and, in the case of the Punjab, by some arbitrary addition to the 18 seats which it would secure on the basis of its population. Here again, the Committee are not in a position to make a definite recommendation, but they take note of a suggestion which has been made for the allotment to the Punjab and Bombay, and also to Bihar and Orissa, of 26 seats each ; to Madras, Bengal and the United Provinces, of 32 seats each ; to the Central Provinces, of 12 ; to Assam, of 7 ; to the North-West Frontier Province, of 3 ; and to the four minor Provinces, of 1 each—by this measure securing a distribution of the 200 seats which might be held to satisfy reasonable claims without doing undue violence to the population basis. But these figures, and those suggested in paragraph 22, would obviously require further consideration.

#### APPORTIONMENT BETWEEN THE STATES OF THEIR QUOTA.

24. The Committee recognise that this is primarily a matter for settlement among the Princes themselves ; but the representatives of other interests can hardly regard it as a matter of indifference since, until a satisfactory solution is found, the idea of federation necessarily remains inchoate, and an important factor in determining the decision of individual States as to adherence to the Federation will be lacking. In view of the admitted difficulties of the question, the Committee are anxious to assist by friendly

suggestions towards the consummation of an acceptable and generally accepted conclusion. The Committee are fully aware that the effective establishment of federation postulates the adherence of the major States and that the absence of even a few of the most important States, however many of the smallest might be included, would place the Federation under grave disadvantages. At the same time, they think that it is essential that the States as a whole should secure representation which will commend itself to public opinion as generally reasonable, and that it is hardly less important to satisfy, so far as may prove possible, the claims of the small States, than to provide adequate representation for those which cover large areas.

25. Two suggestions have been advanced, in the course of the Committee's discussions, for the solution of this problem. The first was that the matter should be entrusted to the Chamber of Princes, with such arrangements as would secure an adequate voice in its deliberations to the small States, and to such States as are not represented in the Chamber at all. The second, based on the belief that the inherent difficulties of the problem would prove such that the Princes—acting through whatever agency—would be unable to evolve a plan which would meet with general acceptance and satisfy all claims, and consequently that a procedure based upon the first suggestion would merely involve infructuous delay, was that the task of apportionment should be remitted to an impartial Committee or tribunal on which the States themselves should not be given any representation, but before which they would all be invited to urge their claims.

26. The Committee are not in a position, for reasons already stated, to make any definite recommendation as to the acceptance of either of these suggestions; but they consider that the best course would be to allow a period of time, which should not, they think, extend beyond the end of March, 1932, within which the Princes should be invited to arrive at a settlement, on the understanding that, if within that period a settlement were not in fact secured, an impartial tribunal would be set up by His Majesty's Government to advise as to the determination of the matter.

#### METHOD OF SELECTION OF STATES' REPRESENTATIVES IN THE LOWER CHAMBER.

27. While the Committee remain of opinion that this question must be left to the decision of the States, it cannot be contended that it is one of no concern to the Federation as a whole. They note the assurances of certain individual members of the States Delegation that, in those States which possess representative institutions and for which these members were in a position to speak, arrangements will be made which will give these bodies a voice in the Ruler's selection. The Committee as a whole are prepared to leave this matter to the judgment of the States.

## REPRESENTATION OF SPECIAL INTERESTS IN THE FEDERAL LEGISLATURE.

28. In paragraph 34 of their Second Report, the Committee recommended that special provision should be made in the Federal Legislature for the representation of the Depressed Classes, Indian Christians, Europeans, Anglo-Indians, Landlords, Commerce and Labour. We make no recommendation here relating to the first four of these interests, regarding the extent and method of their representation, nor for the representation of Women in the Legislature, since the decisions on these points are for the Minorities Committee.

29. But we affirm our previous recommendation that provision should be made for the special representation of the Landlord interest, of Commerce (European and Indian) and of Labour. The number of seats to be assigned to each of these four interests and their apportionment amongst the various Provinces are questions which should be considered by the Franchise Committee, as also is the question of their method of election. Wherever possible, the method should be election rather than nomination.

## NOMINATED MEMBERS

30. In paragraph 34 of the Committee's Second Report, the suggestion was also made that the Governor-General should be empowered to nominate to each Chamber a specified number of persons, not exceeding perhaps ten, to represent the Crown. After further consideration, the Committee see no advantage to be gained from pursuing this suggestion. The persons appointed by the Governor-General to assist him in the administration of the Reserved portfolios will, of course, play their part in the business of the Legislature; but it is not apparent how their task would be facilitated by the presence of a small body of nominated members who, if they were non-officials would rarely possess any special or effective knowledge of questions connected with the administration of the reserved Departments, and whose votes would be too few to influence decisions.

31. If, on the other hand, these members were officials chosen for their knowledge of the subjects in the Governor-General's charge, the same difficulty would be experienced as under the present régime of sparing from their departmental duties, for attendance in the Legislature, so considerable a number of officials as the suggestion contemplates. Moreover, the voting power which such officials would exercise would either be negligible or else would tend to maintain an "official bloc" which, in the opinion of the majority of the Committee, would be out of place in the conditions of the new constitution.

32. On the other hand, while the Committee, for the reasons given, are not prepared to advocate the nomination of members in either

Chamber to represent the Crown or Crown interests, they are impressed with the desirability of securing to the Federation the services in the Upper Chamber of persons of the elder statesman type with an experience of public affairs, both in the political sphere and outside it. It may well be that persons of this type, whom India would delight to honour, may be unwilling, through the absence of provincial influence or connexions, to solicit the suffrages of Provincial Legislatures, or to promote their candidatures by identifying themselves with particular political parties; and the small chances of success at the polls, when party feeling runs high, likely to be attained by persons possessing, in the English phrase, the "cross-bench" mind, need not be emphasised. Yet it would be a grave loss to India if such persons were excluded from her counsels. The Committee are, therefore, of opinion that a small proportion of seats should be reserved, in the Upper Chamber only, for persons to be appointed by the Governor-General. The Governor-General would in making these appointments, act as a general rule upon the advice of his Ministers, though we are disposed to think that, possibly by a constitutional convention, possibly by provision in the Constitution Act, two or three of the appointments might be made on the Governor-General's personal responsibility. In order to avoid any suggestion, however, of an official bloc, the Committee are of opinion that no serving official should be qualified to sit in the Upper Chamber as a nominated member.

### QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP.

33. For the Lower Chamber, in British India the qualification for membership should be identical with that for a voter; that is to say, any person who is qualified as an elector for a constituency of a particular class should be qualified also to stand for election by any constituency of that class in the Province.

34. But, for candidates for the Senate, certain additional qualifications should be laid down. Without attempting to prescribe these in detail—a task which would better be undertaken by the Franchise Committee—we consider that the existing rules regulating the qualifications of voters (and consequently of candidates) for the Council of State should be adopted as a model for candidates for the Upper Chamber, except that the minimum age limit should be 35 years, and subject to such modifications as may be necessary to prevent the virtual exclusion of Women, the Depressed Classes and Labour.

35. It will be necessary also to prescribe the qualifications of voters in the special constituencies we have recommended to secure the representation in the Upper Chamber of Landlords, Commerce (European and Indian) and Labour; and—subject to the age limit just suggested—a person qualified as a voter in any of the special

constituencies should be qualified also as a candidate. Whether, in the case of all or any of these special constituencies, the present qualifications for voters for the Council of State could be adopted as they stand, appears doubtful ; but this we would leave for the consideration of the Franchise Committee.

36. The existing disqualifications for membership for the Indian Legislature appear to us generally suitable for retention, though there was some difference of opinion as to those arising out of convictions for criminal offences, and suggestions were made—which we regard as impracticable—that a distinction should be drawn for this purpose between “ political ” and other offences, or between offences involving moral turpitude and those which do not. On the whole, we regard a restriction of this nature on the free choice of the elector as of little value as a means of ensuring probity of character in candidates, and we recommend that they should be abandoned. At the same time, some members of the Committee consider that the rules should be so framed as to disqualify from candidature any person, who at the time of an election, is actually undergoing a sentence of imprisonment and who would consequently be unable, if returned, to fulfil his duties to the Legislature and to his constituents. On the other hand, a section of the Committee is opposed to this view, being of opinion that a sentence of imprisonment should not, in any circumstances, constitute a disqualification.

37. Although it will clearly be impossible to secure uniformity of qualification in British India and the States, we think it of great importance that there should be absolute uniformity in the matter of disqualifications. These should, therefore, be embodied in the constitution and should apply to all candidates alike.

### OATH OF ALLEGIANCE.

38. The Committee consider that, following common practice in the Empire, the Indian Constitution should provide for an Oath of Allegiance to be taken by members of the Federal Legislature on assumption of their seats. They do not suggest a definite formula at this stage, but its terms will require careful consideration.

### RELATIONS BETWEEN THE TWO CHAMBERS.

39. As will appear from paragraphs 26 and 35 of the Committee's Second Report, this important question was discussed for the first time in the Committee's present Session. The careful consideration we have now given to the matter has led us to the view that nothing should be done in the new constitution which would have the effect of placing either Chamber of the Federal Legislature in a position of legal subordination to the other. It would be a misconception of the aims which we have in view to regard either Chamber as a drag or impediment on the activities of the other. In our view, the two Chambers will be

complementary to each other, each representing somewhat different, but, we hope, not antagonistic, aspects of the Federation as a whole. Absolute equality between the two Chambers of a bicameral Legislature is no doubt unattainable, and, if it were attainable, might well result in perpetual deadlock ; and there is no less doubt that, the provisions of the constitution notwithstanding, the evolution of political development will inevitably result, in the course of time, in placing the centre of gravity in one Chamber.

40. But, so far as the letter of the constitution is concerned, we consider that, subject to the consideration shortly to be mentioned, there would be no justification for endowing one Chamber at the outset with legislative powers which are denied to the other. We accordingly recommend that, while the constitution should provide that, subject to the special provisions to be referred to later, no Bill should become law until it is assented to by both Chambers, it should contain no provisions which would disable either Chamber from initiating, amending or rejecting any Bill, whatever its character. This principle should, however, in the opinion of almost all the British Indian Delegates, be subject to the exception that the right of initiating Money Bills should vest in the Lower Chamber alone, though the States Delegation were almost unanimously opposed to the drawing of this distinction. Subject, of course, to the decision on the point just mentioned, the principle of equality also appears to us to demand that the Government should be entitled to test the opinion of the other Chamber if one Chamber has seen fit to reject a Government Bill, and that, in the event of its passage by the Second Chamber it should be treated as a Bill initiated in that Chamber and taken again to the first.

41. In the event of rejection by one Chamber of a Bill which has been passed by the other, or of its acceptance by either in a form to which the other will not agree, we recommend that, subject to certain conditions which should be set out in the constitution, the Governor-General should have power, either after the lapse of a specified period or, in cases of urgency, at once, to secure the adjustment of the difference of opinion by summoning a Joint Session.

42. As regards the voting of Supply, the opinion of the British Indian Delegates was almost unanimously in favour of confining this function to the Lower Chamber. Their view was based on the precedent afforded in this respect, not merely by almost every other constitution, but by the actual powers which have been enjoyed by the Indian Legislative Assembly during the past ten years. The States Delegates, however, were almost unanimously of opinion that the principle of equality of powers should apply also to the voting of Supply. In their view, since the Supply required by the Federal Government will be required for the common purposes of the Federation (or for the common purposes of British India), there is no logical reason which could be adduced in favour of depriving the

representatives of the Federal Units in the Senate of a voice in the appropriation of the revenues, the responsibility of raising which they would share equally with the members of the other Chamber.

43. Whatever may be the decision between these conflicting views, the Committee assume that the Demands for Grants, whether voted upon by both Chambers or only by the Lower Chamber, would be so arranged as to separate expenditure required for Federal purposes from that required for "Central" purposes, so that the latter might stand referred to a Standing Committee of the British Indian members of both Chambers.

#### NOTE.

*One member of the Committee raised the important question of empowering the Federal Legislature to deal with certain aspects of Labour questions and of empowering the Federal Government and Legislature to deal with questions connected with the ratification of International Labour Conventions.*

*A solution of the difficulties to which he has drawn attention will have to be found when the precise relationship between the legislative powers of the Federal and Provincial Legislatures is finally determined. In this particular matter there has not been opportunity this session to advance further than the general conclusions reached at the last Session, and the Committee are unable to report in detail upon it. Further consideration will have to be given to it.*

#### FEDERAL FINANCE.

44. The Committee did not find time during the first Session of the Conference to consider the subject of "Federal Finance," which may be summarily described as the question of the apportionment of financial resources and obligations between the Federation and the Units. On taking up this subject, the Committee found it desirable to remit it for examination by a sub-Committee, over which Lord Peel presided.

45. The Report of this sub-Committee, which was in effect unanimous, is appended to this Report. Little criticism was directed to its main features, and the Committee accept the principles contained in it as a suitable basis on which to draft this part of the constitution.

46. The Committee were, however, not satisfied with the proposals in Lord Peel's Report for a review of the problem by Expert Committees. Fear was widely expressed that these might, by recommending principles at variance with those upon which the Conference was agreed, tend to undo work already accomplished; and further, that the procedure suggested might cause unnecessary, and perhaps dangerous, delay in settling various points which had an important bearing on the character of the new Federation. The Committee accordingly consider that the suggested procedure should be revised in the manner described below.



47. No change need be made as regards the second of the two Committees (concerned with paragraphs 17–20 of Lord Peel's Report), except that it should have no connection with the other Committee. It should be noted that, of the matters within the purview of this "States" Committee, it is only in respect of those dealt with in paragraph 18 of Lord Peel's Report that it is essential to reach a settlement before the Act setting up the Federation comes into operation.

48. In place of the first Committee recommended in Lord Peel's Report, there should, as early as possible, be appointed in India a "fact-finding" committee, consisting of officials familiar with questions of finance, including States' finance. Without elaborating terms of reference, the functions of this committee may be sketched as follows :—

(a) To investigate the division of pension charges (paragraph 5 of Lord Peel's Report).

(b) To investigate the classification of pre-Federation debt, as contemplated at the end of paragraph 6 of Lord Peel's Report.

(c) To calculate the effect on the Provinces of various possible methods (of which there are only a few to be considered) of allocating the proceeds of Income-tax to the Provinces.

(d) To give an estimate of the probable financial position of the Federation in its early years under the scheme proposed in Lord Peel's Report, indicating, *inter alia*, the probable results of federalising Corporation tax, Commercial Stamps, Tobacco excise, or other possible national excises.

Of these, (d) is the most important.

It was pointed out that (b) had no reference to the investigation of any claim such as had been raised by the Congress, that liability for a portion of the Public Debt of India ought to be undertaken by the United Kingdom.

49. The facts and estimates required from the Committee described in the preceding paragraph should not take long to produce. There will remain to be decided, in the light of them, certain questions, as, for example—

(i) The exact detailed form of the list of Federal taxes (within the general frame-work laid down by Lord Peel's Report); in particular, a final decision will have to be taken about Corporation tax and specific Federal Excises.

(ii) The initial amount of the Contributions from the Provinces.

(iii) The precise period to be laid down for the extinction of the Provincial Contributions referred to in (ii), and of the contributions from certain States which are to be reviewed under the procedure mentioned in paragraph 47 above.

(iv) The exact method according to which Income-tax is to be returned to the Provinces.

50. There will also be one or two other points, left doubtful by Lord Peel's sub-Committee, which will fall for decision. It will be necessary to devise a procedure for discussion and settlement of the outstanding matters.

51. It may be that, in other fields, points of substance directly affecting federation will also remain for settlement after this Session of the Conference. It might thus prove convenient to use a common machinery for their disposal. It is accordingly agreed that this question of procedure should be postponed to a later stage.

### THE FEDERAL COURT.

52. The necessity for the establishment of a Federal Court was common ground among all members of the Committee, and such differences of opinion as manifested themselves were concerned, for the most part, with matters of detail rather than of principle. It was recognised by all that a Federal Court was required both to interpret the constitution and to safeguard it, to prevent encroachment by one federal organ upon the sphere of another, and to guarantee the integrity of the compact between the various federating Units out of which the Federation itself has sprung.

53. The first question which the Committee considered was the nature of the Court's jurisdiction, and it was generally agreed that this jurisdiction must be both original and appellate.

54. The Court ought, in the opinion of the Committee, to have an exclusive original jurisdiction in the case of disputes arising between the Federation and a State or a Province, or between two States, two Provinces, or a State and a Province. The Committee are of opinion that disputes between Units of the Federation could not appropriately be brought before the High Court of any one of them, and that a jurisdiction of this kind ought rather to be entrusted to a tribunal which is an organ of the Federation as a whole. It would seem to follow that the Court should have seisin of justiciable disputes of every kind between the Federation and a Province or between two Provinces, and not only disputes of a strictly constitutional nature; but that in the case of disputes between the Federal Government and a State, between a State and a Province, or between two States, the dispute must necessarily be one arising in the federal sphere, that is to say, one in which a question of the interpretation of the constitution (using that expression in its broadest sense) is involved, since otherwise the jurisdiction would extend beyond the limits of the Treaties of cession which the States will have made with the Crown before entering the Federation. The Committee are disposed to think that decisions by the Court, given in the exercise of this original jurisdiction, should ordinarily be appealable to a Full Bench of the Court.

55. In the case of disputes arising between a private person and the Federation or one of the federal Units, the Committee see no reason why these should not come, in the first instance, before the appropriate Provincial or State Court, with an ultimate right of appeal, if the matter arises within the federal sphere, to the Federal Court, since it would obviously be oppressive to compel a private citizen who had a grievance, however small, against, say, his Provincial Government, to resort exclusively to Delhi, or wherever the seat of the Federal Court may be, for the purpose of obtaining justice. But even in the federal sphere the right of suit against a State in its own Courts accorded to a citizen of that State must be regulated by the laws of that State, though the citizen who is given a right of suit by the State law could not be deprived of his right of access to the Federal Court by way of appeal, whatever form that appeal may take. In this connection, the Committee draw attention to the need of investing both Provinces and States with a juristic personality, for the purpose of enabling them to become parties to litigation in their own right. The Committee understand that, at the present time, no action lies against a Province of British India as such, and that no action can be brought against an Indian Prince in a British Indian Court save under very special conditions. On the other hand, the Committee are informed that, in some of the States, provision has already been made whereby proceedings can be taken against the State in its corporate capacity as distinguished from the Ruler of the State himself. This subject will require to be further examined.

56. The Federal Court ought also, in the practically unanimous opinion of the Committee, to have an exclusive appellate jurisdiction from every High Court, and from the final Court in every State, in all matters arising in the federal sphere, as defined above. A certain difference of opinion on questions of method has, however, to be recorded. The suggestion was made that some plan might be devised whereby anyone desiring to challenge the constitutional validity of a law passed by the Federal or a Provincial Legislature could obtain a legal decision on the matter at an early date after the passing of the Act, and that this might be done by means of a declaratory suit to which some public officer would, for obvious reasons, be a necessary party. The advantages of some such procedure are manifest, and the subject deserves further examination. Assuming, however, that legal proceedings of this kind are found possible, the Committee think it right that they should be confined to the Federal Court alone, at any rate where the validity of a Federal law is in issue, though there was a difference of opinion upon the question whether, in the case of a Provincial or State law, the proceedings might not be permitted in the first instance in the appropriate High Court or State Court. Where, however, a constitutional issue emerges in the course of any ordinary litigation,

the tribunal which may have seisin of the case should have jurisdiction to decide it, subject always to an ultimate right of appeal from the State Court or High Court (if the case gets so far) to the Federal Court.

57. The form which the appeal should take might be left to be dealt with by Rules of Court ; but, whatever form or forms are adopted, the Committee are clearly of opinion that there must be an ultimate appeal as of right to the Federal Court on any constitutional issue. Their attention was drawn to a very convenient procedure at present existing in British India whereby, when a question of title is raised in a Revenue Court, a Case can be stated on that point only for the opinion of the Civil Court, proceedings in the Revenue Court being suspended until the decision of the Civil Court is given ; and they think that the possibility of adopting a procedure of this kind might well be explored. They understand, in particular, that a procedure on these lines would be the procedure most acceptable to the States. The Committee are, however, impressed with the need for discouraging excessive litigation, and recommend therefore that no appeal should lie to the Federal Court, unless the constitutional point in issue has been clearly raised in the Court below.

58. The suggestion that the Federal Court should, for federal purposes, be invested with some kind of advisory jurisdiction, such as that conferred on the Privy Council by Section 4 of the Judicial Committee Act, 1833, met with general approval, and the Committee adopt the suggestion subject to certain conditions. In the first place, they are clear that the right to refer matters to the Court for an advisory opinion must be vested in the Governor-General ; and secondly, they think that no question relating to a State ought to be referred without the consent of that State.

59. The Committee are of opinion that an appeal should not lie from the Federal Court to the Privy Council, except by leave of the Court itself, though the right of any person to petition the Crown for special leave to appeal, and the right of the Crown to grant such leave would, of course, be preserved ; some delegates were, however, of opinion that the Federal Court should be a final Court of Appeal. There would therefore be no right of appeal to the Privy Council direct from a High Court in any case where an appeal lay to the Federal Court. The Committee desire to emphasise here, in order to prevent any misunderstanding, that any right of appeal from the State Courts to the Federal Court and thence to the Privy Council in constitutional matters will be founded upon the consent of the Princes themselves, as expressed in the Treaties of cession into which they will enter with the Crown as a condition precedent to their entry into the Federation. There can be no question of any assumption by Parliament or by the Crown of a right to subject the States to an appellate jurisdiction otherwise than with their full consent and approval.

60. It will be necessary to provide that Federal, State and Provincial authorities shall accept judgments of the Court as binding upon themselves when they are parties to a dispute before it, and will also enforce the judgments of the Court within their respective territories. It will also be necessary to provide that every Provincial and State Court shall recognise as binding upon it all judgments of the Federal Court.

61. The Committee think that the Court should be created, and its composition and jurisdiction defined, by the Constitution Act itself. They are of opinion that it should consist of a Chief Justice and a fixed maximum number of Puisne Judges, who would be appointed by the Crown, would hold office during good behaviour, would retire at the age of 65, and would be removable before that age only on an Address passed by both Houses of the Legislature, and moved with the fiat of the Federal Advocate General. The question of the salaries and pensions of the Judges is a delicate one. The Committee are clear that the salaries, at whatever figure they may be fixed, should be non-votable and incapable of reduction during a Judge's term of office ; and it would be a convenience if the salaries could be fixed by the Constitution Act, or in accordance with some machinery provided by that Act. The Committee have no desire to suggest any extravagant figure, but they are bound to face facts ; and they realise that, in the absence of adequate salaries, it is in the highest degree unlikely that the Federation will ever secure the services of Judges of the standing and quality required. They suggest that the matter might be referred to a small committee for investigation and report at a reasonably early date. With regard to the qualifications of the Federal Court Judges, the Committee suggest that the following should be eligible for appointment :—any barrister or advocate of fifteen years' standing and any person who has been, for not less than five years, a Judge of a High Court or of a State Court, the qualifications for appointment to which are similar to those for a High Court.

62. The seat of the Court should be at Delhi, but power should be given to the Chief Justice, with the consent of the Governor-General, to appoint other places for the sittings of the Court as occasion may require. The Court must also have power to make Rules of Court regulating its procedure ; these Rules should, after approval by the Governor-General, have statutory force. The power to regulate the procedure of the Court should include a power to make Rules enabling the Court to sit in more than one Division, if necessary. The appointment of the staff of the Court should be vested in the Chief Justice, acting on the advice of the Public Service Commission ; but the number and salaries of the staff must, of course, be subject to the prior approval of the Governor-General.

63. A strong opinion was expressed in the Committee that the time had come for the creation of a Supreme Court for British India to which an appeal should lie from all Provincial High Courts

in substitution for a direct appeal to the Privy Council. Appeals from the Court would lie to the Privy Council only with the leave of the Court or by special leave. The creation of such a Court is in the natural course of evolution, and the Committee adopt the suggestion in principle. A difference of opinion, however, manifested itself on the method whereby such a Court should be brought into existence. There was a strong body of opinion amongst the British Indian Delegates to the effect that the Federal Court should be invested with this further jurisdiction, the proposal being that the Court should sit in two Divisions—one dealing with Federal matters and the other with appeals on all other matters from the Provincial High Courts. Other members of the Committee and, generally speaking, the States' representatives, dissented from this view, and were of the opinion that there should be a separate Supreme Court for British India on the ground that the Federal Court would be an all-India Court, while the Supreme Court's jurisdiction would be confined to British India; the mass of work with which it would have to cope would obscure its true functions as a Federal Court, and to that extent detract from its position and dignity as a Federal organ. It is no doubt the case that many more appeals would be taken to a Supreme Court situate in India than are at present taken to the Privy Council, and the Committee appreciate the force of this objection. But there would be no difficulty in reducing the appeals to a reasonable number by imposing more stringent restrictions upon the right of appeal. The Committee would deprecate the imposition on the finances of India of the cost of two separate Courts if this can possibly be avoided, and cannot disregard the possibility of conflicts between them. There is, lastly, at no time in any country a superfluity of the highest judicial talent, and the truer policy appears to them to be to concentrate rather than to dissipate judicial strength.

64. A question of very real difficulty upon which there is a divergence of view, remains to be considered, viz., whether the Constitution Act itself should at once establish a Supreme Court or whether power should be given to the Federal Legislature to establish it either as a separate institution, or by conferring general appellate jurisdiction on the Federal Court as and when it may think proper so to do. The majority of the Committee is impressed with the need for proceeding cautiously in this matter, though recognising that the opportunity should not be lost of settling once and for all the general outlines of a Supreme Court scheme. The establishment of a Supreme Court, and the definition of its appellate jurisdiction are, they think, essentially matters for the Constitution Act, and it appears to them that, in the circumstances, it may be advisable to take a middle course. They recommend, therefore, that the Constitution Act should prescribe the jurisdiction and functions of the Supreme Court, and that the Federal Legislature should be given the power to adopt these provisions of the Constitution Act in the future, if it

should think fit to do so. The majority of the Committee recommends this method on several grounds. In the first place, the establishment of the Court would in any event require a large increase in the judiciary, and, in their view, it should be left to the Federal Legislature of the future to decide whether the additional expense should be incurred or not. Secondly, the whole subject is one which requires much expert examination, and it may be desirable that experience should first be gained in the working of the Federal Court in its more restricted jurisdiction. Thirdly, the functions of the Federal Court will be of such great importance, especially in the early days of the Federation, that, in the opinion of the majority, it would be unwise to run the risk of either overburdening it prematurely with work, or of weakening its position by setting up in another sphere a Court which might be regarded as a rival.

A substantial minority of the Committee is strongly of the opinion that the establishment of a Supreme Court for British India is a matter of urgent necessity, and that such a Court should be set up by the Constitution Act itself without necessarily waiting until the time when the Federation comes into being.

65. A proposal to invest the Supreme Court above described with jurisdiction to act as a Court of Criminal Appeal for the whole of British India also found a certain measure of support. It is clear that, even if a right of appeal to this Court only in the graver criminal cases were given, the work of the Court, and therefore the number of Judges, would be enormously increased. The Committee had not the time at their disposal to enter into a close examination of the question whether, in principle, a Court of Criminal Appeal for the whole of British India is desirable; and they do not feel themselves able to express any opinion upon the matter, though they recognise its great importance. For the same reason that they hesitate to recommend the immediate establishment by the constitution itself of a Supreme Court for appeals in civil matters from the High Courts of British India, the majority is unable to recommend the immediate establishment of a Court of Criminal Appeal. This matter is one which, in their opinion, must be left to the future Federal Legislature to consider; and if that Legislature should be of opinion that such a Court is required, there will be no difficulty, if it should be thought desirable, in investing the Federal Court, or the separate Supreme Court, as the case may be, with the necessary additional jurisdiction. Some members drew attention to the fact that a Court invested with the various jurisdictions which were suggested in the course of the Committee's discussions would have to consist of probably as many as twenty or thirty Judges, and in all likelihood of many more.

66. The subject of the Provincial High Courts in British India was also touched upon in the course of the Committee's discussions, and they think it right to record their views on one or two points

of importance connected with this subject. In the first place, the Committee are of opinion that High Court Judges should continue to be appointed by the Crown. Secondly, they think that the existing law which requires certain proportions of each High Court Bench to be barristers or members of the Indian Civil Service should cease to have effect, though they would maintain the existing qualifications for appointment to the Bench ; and they recommend that the office of Chief Justice should be thrown open to any Puisne Judge or any person qualified to be appointed a Puisne Judge. The practice of appointing temporary additional Judges ought, in the opinion of the Committee, to be discontinued.

Signed, on behalf of the Committee,

SANKEY.

*St. James's Palace, London.*

*9th November, 1931.*



## APPENDIX.

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### Report of the Federal Finance sub-Committee.

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1. The terms of reference of the sub-Committee were as follows :—

"To examine and report upon the general principles upon which the financial resources and obligations of India should be apportioned between the Federation, the British Indian Units jointly and severally, and the States Units."

2. The following Delegates were selected to serve on the sub-Committee :—

Lord Peel (Chairman),  
 Major Elliot, M.P.,  
 Mr. Pethick-Lawrence, M.P.,  
 \*Major the Hon. Oliver Stanley, M.P.,  
 Sir Akbar Hydari,  
 Sir Mirza Ismail,  
 Colonel Haksar,  
 Rao Bahadur Krishnama Chari,  
 \*Mr. Benthall,  
 Sir Maneckjee Dadabhoy,  
 Mr. Iyengar,  
 Sir Sayed Sultan Ahmed, and  
 Dr. Shafa'at Ahmad Khan.

\* Sir Robert Hamilton, M.P., subsequently took the place of Major Stanley, and Sir C. E. Wood that of Mr. Benthall.

3. The sub-Committee met on the 28th, 29th and 30th September, and the 1st, 2nd, 6th, 7th, 8th and 9th October, and has authorised me to present this Report.

4. *Conditions of the Problem.*—In considering the principles upon which the general financial scheme for the new Federation should be framed, we are necessarily at a disadvantage because it is impossible for us, with the time at our disposal, to make even tentative estimates of the probable revenue and expenditure of the Federation and its constituent Units. Any theoretical scheme for the division of resources and obligations should, before being embodied in the constitution, be put to the test of a careful examination of its probable results by some body which is fully equipped for the task. We accordingly recommend that, with the least possible delay after the conclusion of the present Session of this Conference, an Expert Committee should be constituted for the purpose of working out in detail a financial scheme for the Federation,† taking as its starting-point the general proposals contained in our Report (subject, of course, to their acceptance by the Federal Structure Committee and the Conference). The Expert Committee must have for its guidance some general principles of the kind set out below ; but it should be free to make alternative suggestions if, on closer examination of the facts, a probability is disclosed that any general principle laid down by us would, in practice, prove unworkable. In addition to the Committee's duty of framing a general scheme, there are also many specific points, some of which we mention below, on which its advice should be sought.

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† See also paragraph 26.

Such a body will necessarily be in a better position than we are to examine estimates of future revenue and expenditure and to take these into account in arriving at its recommendations. Even this Committee, however, will be unable to foresee the future so accurately that its judgment regarding immediate financial prospects can safely be made the basis of a rigid constitutional scheme. The difficulty is particularly acute in the adverse economic circumstances which now prevail, and which seem likely to continue for some time to come. It will therefore be necessary to aim at a considerable degree of elasticity in the financial framework. Whatever success in attaining this object can be achieved, we still consider it important that the Conference, when considering the question of constituent powers, should be specially careful to ensure that amendment of the constitution in this respect is not so hedged with difficulties as to be almost impracticable. Changing industrial and economic conditions, for example, may, at a date earlier than might now be anticipated, make it imperative to modify the financial scheme adopted at the outset.

While we are thus unable to frame a Budget for the Federation or its Units, it is impossible to enunciate even general principles without making an assumption, however rough, as to the financial obligations of the new governments. The provisional classification of subjects suggested by the Federal Structure Committee at the last Session of the Conference involves no change of importance, from a financial point of view, in the functions of the Provinces (or States) and of the government at the Centre (whether in its "Federal" or "Central" aspect). Federation may bring with it certain fresh charges (e.g., expenses of the Federal Court), or possibly, on the other hand, certain administrative economies; but these variations do not appear likely to reach such magnitude as would bring about any fundamental change in the relative positions of the Units and the Centre in regard to financial requirements. Provincial expenditure, more particularly on "nation-building" services, may expand into fresh channels, whereas the range of Federal expenditure is more confined. It is essential, however, that all the governments should exercise the strictest economy and that their scale of expenditure should be reviewed and reduced to a minimum. But although there may be a natural and a proper tendency for Provincial and States' expenditure to increase, despite economies, and for Federal expenditure perhaps to decrease, it is important to remember that the Federation will have to bear, in the main, the financial burden of any grave crisis, and that it is especially on the credit of the Federal Government that the whole financial stability of India—its constituent parts no less than the Federation—must, in the end, depend. We are therefore bound to point out that there is danger in assuming that in no circumstances will additional burdens fall on the Federal Government.

Bearing the above in mind, we have started from the standpoint—

(1) that it is undesirable to disturb the existing distribution of resources between the various governments in India unless, as we have found in some cases, there are imperative reasons for making a change ;

(2) that, at all events to begin with, the Federation and its constituent Units are likely to require all their present resources (and, indeed, to need fresh sources of revenue) ; so that, on the whole, it is improbable that any considerable head of revenue could be surrendered initially by any of the governments without the acquisition of alternative resources.

With these preliminary observations we now proceed to set forth what we conceive are the principles to be followed.

5. “ *Central* ” Charges.—It was generally accepted in the Federal Structure sub-Committee at the last Session that the aim of the new constitution should be to eliminate, as far as possible, any “ *Central* ” subjects ; but, so far as could be foreseen, it seemed likely that a residue of such subjects (notably certain civil and criminal legislation) would remain indefinitely. It appears probable, however, that the ideal will be more easily attained on the financial side. “ *Central* ” expenditure, broadly speaking, will consist of three categories :—

(1) Expenditure on “ *Central* ” Departments.

(2) A share in pre-Federation obligations in respect of civil pensions.

(3) Possibly a share of the service of the pre-Federation debt.

(2) and (3) are, of course, items which will ultimately vanish.

Expenditure under (1) will be simply for those few departments and institutions (e.g., Archæological Department and Zoological Survey) which were not included at the last Session within the category of Federal subjects. It may well be that an agreement could be reached to federalise these items ; but, in any case the expenditure on them is relatively insignificant. In strict theory there should be included among “ *Central* ” charges a proportion of the cost of the Federal General Administration expenditure in respect of such “ *Central* ” business as “ *Central* ” legislation. The amount, however, would probably be so trifling as to make this a needless complication.

As regards (2), the allocation of “ *Central* ” civil pension charges (not debited to the Provinces) between Federal and “ *Central* ” is a point which should be investigated by the Expert Committee. There seems no reason why the Federation should not be charged in respect of the pensions of officers who were previously employed

on duties which, in future, will fall within the scope of Federal activities ; but there may be a case for making the balance a " Central " charge

6. *Pre-Federation Debt*.—The third possible item in the " Central " charges—a share in the service of the pre-Federation debt—raises more important issues than the other two. The Public Debt of India has been incurred through loans which have not, at the time of their issue, been allocated for expenditure on specific heads. It is certain that, in any case, from the point of view of the investor, the security must remain, as before, the " revenues of India "—that is to say, the future revenues of the Federation and of the Provinces but not of the individual States. No classification of pre-Federation debt as Federal and " Central " for constitutional purposes could be contemplated of such a kind as to affect the position of the lender.

The Departmental Memorandum of the Government of India has attempted to classify the greater part of the total Public Debt as debt covered by commercial or liquid assets together with a few miscellaneous items of a similar character, leaving a residue of Rs. 172 crores which, it is suggested, should be classed as " Central." We think that this classification may be misleading for the following reasons.

The borrowings of governments are, in the nature of things, not restricted to what is required for investment in commercial or productive undertakings, and it is probable that no important country, even at the time of its fullest prosperity, has been in a position to show the whole of its debt as covered by assets of this nature. It would be absurd to suggest that every country has therefore been continuously insolvent, as would be the case of a commercial company which showed a deficiency of assets in comparison with liabilities. A country's borrowing is conducted on the security of its credit and of its revenues, actual and potential.

The Government of India, like most other governments, has at times had to increase its debt owing to revenue deficits. Such debt, legitimately incurred in tiding over periods of difficulty or emergency, forms a reasonable charge on the whole undertaking of government, even when not represented by specific tangible assets. On the other hand, large allocations have consistently been made from revenue for the reduction of debt and for capital expenditure. It is doubtful whether any other country could make so favourable a comparison as India between the total volume of its debt and the value of its productive assets.

Even as regards the productive assets included in the Memorandum, it will be observed that the figure against Railways, for instance, is not an estimate of their actual commercial value as a going concern, but represents merely the capital invested. The Railway proceeds in

a normal year are sufficient for the payment of a contribution to general revenues of over Rs. 5 crores, in addition to meeting the whole of the interest charges on the Railway debt. The capitalised value of this additional profit, though it cannot be estimated with exactitude, might well amount to as much as Rs. 100 crores.

Again, the valuable assets of the Government of India are not limited to those which actually earn profits. The Federal Authority will presumably succeed to the whole of the buildings and public works of all kinds which at present are the property of the Central Government. The replacement value of these is, of course, an enormous sum, though there are no exact data at hand for evaluating it. Further, while such assets do not directly produce revenue, they represent a saving of annual expenditure.

Moreover, although the loans and other obligations are shown as partially offset by certain assets, it will be understood that loans are normally raised for general purposes and not earmarked for specific objects; their proceeds go into a general pool. The particular items of debt cannot, therefore, be set off against individual assets; and it would clearly be impossible to relate the "balance" of Rs. 172 crores, mentioned above, to any particular loan or other obligation.

It therefore seems to us that, if it were found, after investigation by the Expert Committee, that all the obligations were covered by assets, the whole of the pre-Federation debt should be taken over by the Federation. While, however, this seems to us to be the probable result of a close investigation, we do not rule out the possibility of a finding by that Committee that a certain proportion of the pre-Federation debt should equitably be classified in the first instance as "Central"; that is to say, that its service (including a due proportion of sinking fund charges) should be taken to be a "Central" and not a Federal charge.

The question of post-Federation debt is considered in paragraph 22 below.

*7. Service of "Central" Charges.*—The only important existing source of the Government of India's revenue which is derived solely from British India is Income-tax. The problem of how Income-tax should be treated is discussed more fully in paragraph 15 below; but it is clear that, whatever may be the amount of the "Central" charges discussed in the preceding paragraphs, it should be deducted as a first charge against the Income-tax collected solely from the British Indian Provinces, and against any other revenue collected by the Federal Government but derived solely from British India.

*8. Allocation of Resources between the Federation and its Constituent Units.*—It is obvious that, if there is to be an equitable apportionment of burdens and smooth working of the constitutional machine,

the Federal resources should, as far as possible, be confined to revenues derived alike from the inhabitants of the Provinces and of the States, and which can be raised either without any action on the part of the individual States or by an agreement with them of simple character, readily enforceable. This principle implies, very roughly, that the Federal sources of revenue should be confined to "indirect" taxes. If, however, a "direct" tax could be found which complied with the above conditions, it would be highly desirable to include this among the Federal resources, for the following reasons.

The revenue from Customs will inevitably decline if there is an intensification of protective policy, and the profits of indigenous companies (and also, of course, the yield of the Income-tax on these profits) will presumably increase. Moreover, "indirect" taxes tend to impose a relatively heavy burden on the poorer classes, and a Federal system of purely "indirect" taxation might unduly expose the Federal Government to criticism on this ground. We have been informed that federations which began with only "indirect" taxation as a Federal resource have been compelled by force of circumstances to levy a tax on incomes or profits of companies in some form or other; and that, in at least two cases (United States of America and Switzerland), a formal Amendment of the Constitution was necessary for this purpose.

9. *Corporation Tax*.—The most obvious "direct" Federal tax is Income-tax. We think that it would be desirable, if it were possible, that some of the Income-tax receipts in all the Units of the Federation should, in case of necessity, be available as a Federal resource; but we recognise that this is, in general, a development which must be left to the future and depend on free negotiation between the Federal Government and the federating States subsequent to federation.

As regards the Corporation tax (now called the Super-tax on Companies), however, we suggest that, if the necessity of such a reinforcement of Federal revenues is established, this tax should be included in the list of Federal taxes; and we hope that the States will agree to this principle.

If federalisation of the Corporation tax were not accepted by the States, it would continue to be treated as a British Indian source of revenue.

10. *Classification of Revenues*.—In view of the difficulty of classifying taxes in general terms which permit of precise legal interpretation, and of the necessity, in a federation, of leaving no doubt as to where the constitutional power of imposing a certain tax lies we think the most satisfactory solution would be that the Federal taxes

and the Provincial taxes should be fully scheduled. We would suggest the following initial classification (apart from Income-tax, which is discussed separately in paragraph 15 below) :—

*Federal.*

External Customs, including Export duties.

Salt.

Export Opium.

Excises on articles on which Customs duties are imposed (with the exception of Excises on Alcohol, Narcotics\* and Drugs).

Receipts from Federal Railways, Federal Posts and Telegraphs, and other Federal commercial undertakings (see further under paragraph 25 below).

Profits of Federal Currency.

Corporation tax (see paragraph 9 above).

Contributions from Provinces (see paragraph 16 below).

Contributions from States (see paragraph 17 below).

*Provincial.*

Land revenue.

Excises on Alcohol, Narcotics\* and Drugs.

Stamps, with the possible exception of Commercial Stamps (see paragraph 13 below).

Forests.

Provincial commercial undertakings.

Succession duties, if any.

Terminal taxes, if any (see paragraph 13 below).

The first seven taxes in the present First Schedule to the Scheduled Taxes Rules.

\* It is open to doubt whether "Narcotics" should, for this purpose, include Tobacco.

We think that these lists should be examined by the Expert Committee, not only in order to review them generally, but also to expand and particularise them, and to include in them all sources of taxation at present used in British India or under contemplation.

11. *Relations of Federal and State Taxation.*—It is necessary, at this stage, to refer to certain forms of taxation now in force in the States, apart from the special cases discussed in paragraph 20, which may conflict with taxes assigned to the Federation, or which may be economically undesirable from the point of view of the Federation as a whole. The first and most important of these is the internal Customs tariff which many States levy at their frontiers. One aim of the Federation, in our opinion, should be the gradual disappearance of any tax, now in force in a State, which is similar in character to a Federal tax and so may impinge on Federal receipts. At the same



time we recognise that it may be impossible for the States in question to surrender, either immediately or in the near future, large sources of existing revenue, without the acquisition of fresh resources ; nor would it seem to be in general an equitable plan for the Federation to attempt to buy up, so to speak, the existing rights of the States in such a matter. This would simply mean that, in the general interests of economic unity and to facilitate trade, a tax would be imposed on the Federation as a whole in order to relieve the inhabitants of the States. The abolition of these taxes must therefore be left to the discretion of the States, to be effected in course of time as alternative sources of revenue become available. Subject to examination by the Expert Committee, it seems likely that one possible such source is the Terminal tax referred to in paragraph 13.

There may be some instances, e.g. Corporation tax and Tobacco excise, in which States already levy taxes which, under the general scheme, it is suggested, might be federalised. Special adjustments will be necessary to bring these States into line with the Federation.

12. *Unspecified Taxes.*—Under the scheme outlined in paragraph 10 above, the problem of “ residuary powers ” of taxation, in its ordinary sense, would seem to disappear ; and we are left simply with the question, who should have the power of raising taxes hitherto un contemplated in India. It is obvious that, in dealing with taxes of a nature which is at present unforeseen, the correct solution cannot be to allocate them in advance either finally to the Federation or finally to the constituent Units. A proper decision could only be taken when the nature of the tax was known. There would be great advantages in vesting the Federation with the right to levy such taxes, while empowering it to assign the right to the Units in particular cases, since such a process would be far easier than that of vesting the right in the Units and asking them, when necessary, to surrender it to the Federation. There are, however, constitutional objections to the proposal that the Federation should have power to impose unscheduled taxes on all Units of the Federation ; and many of us feel that it is not possible to do more than to provide that the constitutional right to levy any unscheduled tax should rest with the Provinces or States, subject to the condition that the levy of the tax does not conflict with the Federal scheme of taxation.

13. *Taxation—Miscellaneous.*—Sir Walter Layton recommended the use of Terminal taxes as an additional resource for the Provinces. The Government of India, on the other hand, have pointed out the difficulties which beset this proposal. Once again, such complicated issues are raised that expert scrutiny is essential. We agree that, if such taxes were levied, the proceeds should go to the Provinces and the States. In any case we think that both the rates and the general conditions under which such taxes would be imposed should be subject to the control of the Federal Government and Legislature.

Transit duties, whether in the Provinces or in the federating States, should be specifically forbidden.

The Provinces should be debarred from levying internal Customs. (The position as regards the States is examined in paragraph 11 above.)

There is much to be said for federalising Commercial Stamps on the lines of various proposals made in the past ; but we have not examined the question sufficiently to justify us in reaching a definite conclusion.

It will be understood that the powers of taxation enjoyed by Provincial Governments or States should be subject to the overriding consideration that they should not be exercised in such a manner as to conflict with the international obligations of the Federal Government under any Commercial Treaty or International Convention.

No form of taxation should, we think, be levied by any Unit of the Federation on the property of the Federal Government. The precise form in which this principle should be expressed should be examined by the Expert Committee.

14. *Grants to Constituent Units.*—It seems important that the constitution should, in one respect, be less rigid than the existing one, under which it has been authoritatively held that there is no power to devote Central resources to the Provinces or Provincial resources to the Centre. It should, we think, be open to the Federal Government, with the assent of the Federal Legislature, not only to make grants to Provinces or States for specified purposes, but also, in the event of its ultimately finding that Federal revenues yield an apparently permanent surplus, to be free, as a possible alternative to reduction of taxation, to allocate the surplus proceeds to the constituent Units of the Federation, both States and British Indian Provinces. It appears desirable that the constitution itself should lay down the proportions in which funds thus available should be divided among the Units, whether according to their respective revenues, or to population, or to some other criterion—a point on which the Expert Committee will presumably advise.

Whatever the automatic basis for distribution, we consider that it should be subject to an exception in the case of States which impose taxes of a character similar to Federal taxes (e.g. internal Customs) ; and it should be open to the Federal Government to distribute to such a State its share of the surplus funds only if that State agreed to reduce equivalently the tax at the abolition of which the Federation was aiming.

The reverse process should also be possible. Any Province, with the assent of its Legislature, should be free to make a grant for any purpose to the Federal Government.

15. *Taxes on Income*.—We now take up the question of the treatment of taxes on Income other than Corporation tax, which, we have suggested in paragraph 9 above, should be Federal. As stated in paragraph 7, something may have to be deducted from the proceeds of these taxes, in the first instance, on account of “ Central ” charges, if any.

We are agreed that such taxes should still be collected from the whole of British India by one centralised administrative service. Most of us are also of the opinion that uniformity of rate should be maintained, since variations of rate may lead to unfortunate economic consequences, such as discrimination between industries in different Provinces. Some of us take the opposite view, both because of the constitutional difficulty mentioned below and because of the difficulty of securing uniformity in all Units. The subject is clearly one to which the Expert Committee should devote much attention.

In any case, we are all of the opinion that the net proceeds should, subject to the special provisions mentioned below, be re-distributed to the Provinces. On any other basis it will be impossible to secure, even ultimately, a uniformity of Federal burdens as between the Provinces and the federating States, or to avoid a clash of conflicting interests in the Federal Legislature when there is a question of raising or lowering the level of taxation. The distribution of the proceeds of Income-tax among the Provinces (even though there may initially be countervailing Contributions to the Federal Government, as proposed in the next paragraph) may also form a very convenient means of alleviating the burden of two or three of the Provinces which, under the present system, are universally admitted to be poorer than the others. With this in view, the Expert Committee should recommend by what criteria the proceeds of Income-tax should be allocated among the Provinces—whether, for example, on the basis of collection or origin, or according to population, or by some other method or combination of methods.

Those of us who recommend that Income-tax should be collected by one agency at a uniform rate to be fixed by the Federal Legislature, though the proceeds are distributed to the Units, recognise that we are, of course, departing from the principle—to which we generally attach considerable importance—that the right to impose and administer a tax should be vested in the authority which receives the proceeds. This seems to us inevitable ; but the difficulty might be met, at all events partially, if the Federal Finance Minister, before introducing any proposal to vary the Income-tax rate, were required to consult Provincial Finance Ministers. The procedure in the Federal Legislature, when dealing with an Income-tax Bill, should follow the procedure to be laid down for other “ Central ” legislation affecting directly only British India.

A further point arising in connection with Income-tax, of such complicated nature that we are unable to make a definite recommendation regarding it, is the possibility of empowering individual

Provinces, if they so desire, to raise, or appropriate the proceeds of, a tax on agricultural incomes. We suggest that this point might be referred to the Expert Committee for investigation.

16. *Provincial Contributions.*—We have, subject to certain reservations, proposed the allocation to the Provinces of the proceeds of taxes on Income, without, so far, any corresponding reinforcement for the Federal Government. If the Expert Committee unexpectedly found that Federal resources were such as to give a secure prospect of recurring revenues sufficient to meet this loss immediately (and also a loss in respect of the heads dealt with in paragraph 17 below), many difficulties would, of course, be removed. But, on the provisional basis set out in paragraph 4, we are bound to assume that there may be a substantial Federal deficit, due to the allocation of Income-tax to the Provinces. The deficit, in so far as it arises from the above cause, should, we suggest, be met by Contributions from the Provinces, to be divided between them either on the basis of their respective revenues or of population, or according to some other defined method. The Expert Committee should consider what is the most appropriate basis. This basis need not necessarily be the same as that on which the Income-tax proceeds are distributed. Differentiation between the two methods might be used as a means of partially adjusting the burden on Provinces which are specially hard hit by the existing distribution of resources between them.

We further propose that, not merely should it be the declared object of the Federal Government, as its position improves, to reduce and ultimately extinguish these Contributions, but the constitution should specifically provide for their extinction by the Federal Government by annual stages over a definite period, say, ten or fifteen years.

17. *States' Contributions.*—In the scheme proposed above, the Federal burdens will be spread over all the Units of the Federation in a precisely similar manner except for :—

(a) The above-mentioned Contributions from the Provinces, until such time as they are finally abolished ;

(b) such direct or indirect contributions as are, or have been, made by certain States, of a kind which have no counterpart in British India ; and

(c) varying measures of immunity in respect of Customs and Salt enjoyed by certain States.

We now turn to consider what the States' contributions are, or may be ; but, at the outset, we would lay down the general principle that, subject to certain exceptions specified below, the direct or indirect contributions from the States referred to at (b) should be wiped out *pari passu* with the Provincial Contributions mentioned in the preceding paragraph.

18. *Cash Contributions from States and Ceded Territories.*—The direct or indirect contributions from the States just referred to may arise, or are alleged to arise, under the following heads :—

- (i) cash contributions ;
- (ii) value of ceded territories ;\* and
- (iii) contributions in kind for Defence by the maintenance of State Forces.

(i) Cash contributions from States (till recently known as tributes) have arisen in many different ways, and it has been impossible for us to examine the cases of individual States. Nevertheless, we think that there is, generally speaking, no place for contributions of a feudal nature under the new Federal Constitution ; and only the probability of a lack of Federal resources at the outset prevents our recommending their immediate abolition. We definitely propose that they should be wiped out *pari passu* with the Provincial Contributions discussed in paragraph 16 above. Meanwhile, there seem to us to be certain cases in which real hardship is inflicted by the relative magnitude of the burden of the cash contributions ; and we suggest that it might be possible, without excessive loss being thrown on the Federal Government, to remit at once that part of any contribution which is in excess of 5 per cent. of the total revenues of a State. Apart from this, the circumstances under which the contributions have been levied vary so much that it is necessary for the Expert Committee to undertake (what it has been impossible for us to execute) a detailed examination of each individual case, and, with the above general principles in mind, to express an opinion as to what would be equitable treatment for each of the States in question.

(ii) Without the necessary statistics, we are unable to investigate in detail the claim of the States that, through having ceded territory, some of them will be liquidating a liability in respect of Federal burdens. Here again we propose that the Expert Committee should examine the whole question, and pronounce an opinion as to the equities in each individual case.

19. *State Forces.*—(iii) Any attempt to assess the financial value to the Federation of the State Forces would raise many intricate problems into which it has been impossible for us to enter. Close consultation with the Military Authorities and with individual States would be necessary before any solution of this problem could be found. The maintenance and availability of these Forces is at present optional for the States concerned ; and we think it likely that, before any credit was given to a State on account of the Force which it maintains, the Federal Authorities would, at all events, wish to prescribe :—

- (a) That the Forces should be efficient according to a standard of which the Military Authorities should be the judge, and should also be required for purposes connected with the general Defence scheme of India ; and

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\* This term does not include the leased territory of Berar.

(b) that these Forces should, by some permanent arrangement, be made available for services to be determined by the competent Military Authorities.

In any case, we regard this as a separate question which should be taken up between the Military and Financial Authorities of the Federal Government on the one hand, and the individual States on the other. We further think that any financial adjustment should be a matter of bargaining between the parties concerned, and should be treated as a separate matter—not on the lines of (a) and (b) of paragraph 17.

20. *Maritime States and Kashmir*.—These States, being on the frontiers of India, are in a special position as regards the question of external Customs duties. Here again, we feel that it is impossible to deprive States of revenue of which they are already in possession. One principle which we would lay down is that, in all cases, the Import tariff at the States' Ports should be not less than that at Ports in the rest of India. The question whether Maritime States should agree to the administration of Customs at their Ports being taken over by the Federal Department is obviously one of great importance, but hardly comes within the sphere of our enquiry.

Our general conception of the problem is that the Treaties or agreements, which vary widely in the different cases, must be taken as they stand, and that any decision as to what are the existing rights of a State, in those instances in which they are now in dispute, should be determined separately, with the least possible delay, and not by the Expert Committee. We think, however, that the latter should investigate the position in each State on its ascertained existing rights, and should express an opinion as to what commutation it would be worth while for the Federal Government to offer to the State for the extinction of any special privilege which it now enjoys. In doing so, the Committee might allow for any contributions of special value which a State may be making to the Federal resources. With this opinion before them, we think it should be left to the Federal Authorities, if they think fit, to negotiate with each State for the surrender of existing rights. The Expert Committee should also attempt to determine what, in the absence of any such surrender, would be the amount which Federal revenues lost owing to the existence of the special right of the State; and this valuation should be taken into account by the Federal Government whenever any question arose, as suggested in paragraph 14 above, of the Federation's distributing surplus revenue over the Federal Units.

21. *Emergency Powers of the Federal Government*.—In order to ensure that the Federation is not left resourceless in a grave emergency, and also to secure the object referred to in the next paragraph, we regard it as important that there should be an emergency power

in the Federal Government, with the approval of the Federal Legislature, to call for contributions from all the Units of the Federation on some principle of allocation to be based on examination by the Expert Committee.

*22. Borrowing Powers of the Units and the Security of Post-Federation Debt.*—In view of the degree of autonomy with which, we understand, it is likely that Provinces will be clothed, it seems to us that it will probably be inappropriate, at all events as regards internal borrowing, that there should be any power in the Federal Government to exercise complete control over borrowing by a Province. There must apparently be a constitutional right in a Province to raise loans in India upon the security of its own revenues, leaving it, if need be, to learn by experience that a Province with unsatisfactory finances will only be able to borrow, if at all, at extreme rates. We would, however, give the Federal Government a suitably restricted power of control over the time at which Provinces should issue their loans, so as to prevent any interference with other issues, whether Federal or Provincial. But, although this should be the constitutional position, we think it highly undesirable that, in practice, Provincial borrowings and Federal borrowings should be co-ordinated only to this limited extent; and we feel little doubt that, as hitherto, Provinces will find it desirable to obtain the greater part of their capital requirements through the Government at the Centre.

It has been suggested that loans, both for the Federation itself and for the Units, should be raised by a Federal Loans Board or Council, consisting of representatives of the Federal Government and of the Governments of the Units and of the Reserve Bank. On the other hand, it is argued that an authority of this kind could not raise a loan, since it could not pledge the revenues of the country, though it might be useful in an advisory capacity when the Federal Government was dealing with applications made by Provinces for loans. We are of opinion that these suggestions should be examined by the Expert Committee, which should be asked to make definite recommendations as to the machinery to be set up for arranging loans. In doing so, they will no doubt take into account the experience of Australia and other countries.

In order to secure that loans are raised at the cheapest rates, it is desirable that the security should be as wide as possible; and we therefore suggest that, in the interests both of the Federation and of the Units, all loans raised by the Federal Authority should, in the future, like those of the Government of India in the past, be secured not only on the revenues of the Federation but also on the revenues of the Provinces of British India. To ensure that this is not an unreality, it is necessary to have some such provision as is proposed in the preceding paragraph, under which there is an ultimate right in the Federation to call for contributions from the Units.

There would be no objection to federating Indian States, if they so desired, obtaining funds from the Federal Government on conditions similar to those applying to the Provinces, and being eligible for representation on the Advisory Board, provided that those participating were prepared specifically to recognise this right of the Federation to call for contributions from themselves as well as from other Units.

We are of the opinion that there should be no power in the Units to borrow externally without the consent of the Federal Government.

23. *Provincial Balances.*—We consider that, until a Reserve Bank has been established, the Federal Government should act as banker for the Provincial Governments on a commercial basis. On the establishment of a Reserve Bank, Provincial Balances should be kept with that institution.

24. *Chief Commissioners' Provinces.*—It is suggested that the revenue and expenditure of these areas, though shown in the accounts under separate heads for each area, should fall within the scope of the Federal Budget. Generally speaking, we think that the States have as great an interest in these areas as has British India ; and we believe that those areas which are likely to be in deficit will probably be found to be so for Federal reasons, such as special connection with Defence, or, in the case of Delhi, its containing the Federal Capital.

It is, of course, proposed that the North-West Frontier Province, which is now a Chief Commissioner's Province, should become a Governor's Province. There must, however, be a considerable gap between the revenue derived from the ordinary Provincial sources and the normal expenditure of the Province ; and it is proposed that this should be filled by a subvention. We contemplate that this subvention should be found from the Federal Budget, as the causes of the Provincial deficit are intimately linked with matters of Federal concern, viz., Defence and Foreign Policy.

25. *Commercial Departments.*—Some of us are of the opinion that the Railways (and possibly other departments, such as Posts and Telegraphs) should be conducted on such a basis as to secure a more complete separation from Federal revenues than is at present the case, and that, after paying interest and meeting the charge at present incurred by the Government of India in respect of reduction of Railway debt, they should keep their own profits and should work on a basis which, in the long run, would yield neither profit nor loss. From our standpoint it is to be noticed that such a plan would involve an important change in the basis of the security for the existing debt ; but the proposal is closely connected with that made at the last Session of the Conference, that a Statutory Railway



Authority should be established. It thus raises very important constitutional issues which are beyond the province of this sub-Committee and must be fully examined elsewhere.

26. *Proposals regarding Expert Committees.*—The Expert Committee, the appointment of which we have recommended in paragraph 4 above, will, in our view, have a most important rôle to play. We anticipate that it might be difficult to commit to one small body the examination of all the matters in regard to which we have judged that detailed scrutiny will be required.

We therefore advocate a division of the field of enquiry into two parts. The principal object of the first enquiry would be a general survey of the problem and an examination of the questions dealt with in paragraphs 5 to 17 and 21 to 25 of our Report. The second enquiry should relate mainly to the States, and would require considerable historical research in addition to the compilation and scrutiny of statistics. Under this head it will be necessary to review in detail the questions dealt with in paragraphs 17 to 20 of our Report.

We consider that efficiency and promptitude would best be served by allotting these two fields of enquiry to two separate Committees, the work of which might perhaps be co-ordinated by a common Chairman. A precedent for a somewhat similar device can be found in the arrangements made for the work of the Franchise Committee and Functions Committee of 1918–19.

Signed, on behalf of the sub-Committee,

PEEL

*St. James's Palace, London,*

*9th October, 1931*

## FOURTH REPORT OF FEDERAL STRUCTURE COMMITTEE.

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*(For Composition of the Committee, see page 11.)*

1. The Committee, when discussing the subjects covered by this Report, viz., Defence, External Relations, Financial Safeguards and Commercial Discrimination, did not have the advantage of hearing the views of the Muslim members of the British Indian Delegation who reserved their opinion on such questions until such time as a satisfactory solution had been found of the problems which confronted the Minorities Committee. Some other representatives of minorities similarly reserved their opinion.

### DEFENCE.

2. Our consideration of the question of Defence in its constitutional aspect is based on the principle enunciated in the Defence sub-Committee at the last Session that "The Defence of India must, to an increasing extent, be the concern of the Indian people, and not of the British Government alone."

3. The view was strongly put forward by some members that no true responsibility for its own government will be conferred on India unless the subject of Defence (involving, of course, the control of the Army in India, including that of the British troops) is immediately placed in the hands of an Indian Ministry responsible to an Indian Legislature, with any safeguards that can be shown to be necessary.

4. The majority of the Committee are unable to share this view. They consider that it is impossible to vest in an Indian Legislature during the period of transition the constitutional responsibility for controlling Defence, so long as the burden of actual responsibility cannot be simultaneously transferred.

5. The majority of the Committee therefore reaffirm the conclusion reached in the Committee at the last Session that "the assumption by India of all the powers and responsibility which have hitherto rested on Parliament cannot be made at one step and that, during a period of transition, the Governor-General shall be responsible for Defence,"\* being assisted by a "Minister" of his own choice responsible to him and not to the Legislature.

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\* See paragraph 11 of the Second Report of the Federal Structure sub-Committee.

6. At the same time there is no disagreement with the view that the Indian Legislature must be deeply concerned with many aspects of Defence. It is undeniable that there can be no diminution of such opportunities as the present Legislature possesses of discussing and through discussion of influencing Defence administration. While the size, composition and cost of the Army are matters essentially for those on whom the responsibility rests and their expert advisers, yet they are not questions on which there can be no voicing of public opinion through constitutional channels. The Legislature would thus continue to be brought into the counsels of the Administration in the discussion of such outstanding problems as the carrying out of the policy of Indianisation. Further, there must be correlation of military and civil administration where the two spheres, as must sometimes inevitably be the case, are found to overlap. In the latter connection the suggestion was made that a body should be set up in India analogous to the Committee of Imperial Defence in Great Britain. Some members of the Committee considered that even though responsibility for the administration of the Army might remain, during a period of transition, with the Governor-General, the final voice on such questions as the size, composition and cost of the Army should rest with the Legislature.

7. To secure the measure of participation contemplated under paragraph 6 by the majority of the Committee, various suggestions were made, the cardinal feature of which, in almost all instances, was the precise position to be assigned to the "Minister" appointed by the Governor-General to take charge of the Defence portfolio. It was assumed that his functions would roughly correspond to those of the Secretary of State for War in the United Kingdom. Among the more important proposals made were the following :—

(i) The "Minister," while primarily responsible to the Governor-General, should, as regards certain aspects only of Defence, be responsible to the Legislature.

(ii) The "Minister," though responsible to the Governor-General, should be an Indian; and he might be chosen from among the Members of the Legislature.

(iii) The "Minister," of the character contemplated in (ii), should be considered to be a Member of the "responsible" Ministry, participating in all their discussions, enjoying joint responsibility with them, and in the event of a defeat in Legislature over a question not relating to the Army should resign with them though, of course, remaining eligible for immediate re-appointment by the Governor-General.

8. While some of these suggestions contain the germs of possible lines of development, it is impossible to escape from the conclusion (a) that, so long as the Governor-General is responsible for Defence,

the constitution must provide that the Defence "Minister" should be appointed at the unfettered discretion of the Governor-General and should be responsible to him alone, and (b) that this "Minister's" relations with the rest of the Ministry and with the Legislature must be left to the evolution of political usage within the framework of the constitution.

9. The view was put forward that, while supply for the defence services should not be subject to the annual vote of the Legislature, agreement should be sought at the outset on a basic figure for such expenditure for a period of, say, five years, subject to joint review by the Legislature and representatives of the Crown at the end of such period, with special powers in the Governor-General to incur expenditure in cases of emergencies. The details of any such plan should receive further careful examination.

#### EXTERNAL RELATIONS.

10. Very similar considerations to those governing the constitutional treatment of Defence apply in the case of the subject of External Relations, and in general the views expressed by members of the Committee on this subject followed closely their opinions regarding the constitutional provisions in relation to Defence. In particular the majority of the Committee reaffirm the view taken in the Second Report of the sub-Committee (paragraph 11) that the Governor-General should be responsible for External Relations.

11. There is, however, a difficulty in connection with External Relations which hardly arises in the case of Defence, viz., that of defining the content of the subject. The reserved subject of External Relations would be confined primarily to the subject of political relations with countries external to India and relations with the frontier tracts. Commercial, economic and other relations would fall primarily within the purview of the Legislature and of Ministers responsible thereto; in so far, however, as questions of the latter character might react on political questions, a special responsibility will devolve upon the Governor-General to secure that they are so handled as not to conflict with his responsibility for the control of external relations. There will accordingly be need for close co-operation, by whatever means may prove through experience most suitable for securing it, between the Minister holding the portfolio of "External Relations" and his colleagues the "responsible" Ministers.

12. Some misunderstanding may have been caused by the description, in paragraph 11 (ii) of the sub-Committee's second Report, of External Relations as including "Relations with the Indian States outside the Federal sphere." As set out in the Prime Minister's declaration at the close of the last Session, "The connection of the

States with the Federation will remain subject to the basic principle that in regard to all matters not ceded by them to the Federation their relations will be with the Crown acting through the agency of the Viceroy."

#### FINANCIAL SAFEGUARDS.

13. In paragraph 11 of their Second Report the sub-Committee in recording the general agreement, to which reference has been made in an earlier paragraph of this Report, that the assumption by India of all the powers and responsibility which have hitherto rested on Parliament cannot be made at one step, recorded the consequential opinion that, during a period of transition in certain situations which may arise outside the sphere of the Reserved Subjects, the Governor-General must be at liberty to act on his own responsibility, and must be given the powers necessary to implement his decision. And in paragraphs 14 and 18 to 20 of the same Report, they then proceeded to indicate in some detail their view of those situations in the financial sphere for which such special provision would be necessary. The proposals in this connection were, in the view of some members of the Committee, based upon the following fundamental propositions :—

(1) that it is essential that the financial stability and credit of India should be maintained ;

(2) that the financial credit of any country rests in the last resort upon the confidence of the investor, actual and potential ;

(3) that one result of the connection which has subsisted between India and the United Kingdom has been that her credit in the money markets of the world has hitherto been in practice closely bound up with British credit ; and

(4) that a change in her constitutional relations with the United Kingdom which involved a sudden severance of the financial link between the United Kingdom and India would disturb confidence and so place the new Indian Government and Legislature at a grave disadvantage.

14. The proposals designed to avert such a situation have been further discussed at the Committee's present Session. While some members consider that in present circumstances the proposals in paragraphs 18 to 20 of the Second Report may not prove sufficient, others have advanced the view that they erred on the side of caution, and that since there was no ground for postulating imprudence on the part of the responsible Executive and Legislature of the future, nothing further was required in order to ensure financial stability, in addition to the normal powers of veto which would vest in the Governor-General, than the establishment, pending the creation by the Indian Legislature of a Reserve Bank, of a statutory advisory

Council, so constituted as to reflect the best financial opinion of both India and London, which would be charged with the duty of examining and advising upon monetary policy. (Some of those who took this view were of opinion that it might not be necessary for the Statutory Advisory Council to remain in existence after the Reserve Bank has been established). It was, however, suggested by those who held such views that it might be advisable to provide that in the event of the rejection by the Legislature of the Government's proposals for the raising of revenue in any given year, the provision made for the last financial year should continue automatically to be operative.

Some members again, who had not participated in the Committee's earlier discussions, went further in their objection to the financial safeguards, and expressed themselves as unwilling to contemplate any limitations upon the powers of an Indian Finance Minister to administer his charge in full responsibility to the Legislature, on the ground that a constitution which did not concede complete control of finance to the Legislature could not be described as responsible government, and that derogation from complete control would hamper the Finance Minister in the discharge of his duties.

15. The majority of the Committee adhere to the principles enunciated in their previous Report. They feel strongly that if the attitude of caution with which they approached this question last January was justified—as they are convinced by the considerations stated in paragraph 13 of this Report that it was—the financial crisis which has since overwhelmed both the United Kingdom and India in common with so many other countries has still further reinforced its necessity. They feel further that in the conditions of complete uncertainty and instability now so widely prevailing, it would serve no useful practical purpose here and now meticulously to examine or to attempt to decide upon the precise means to adopt to ensure and command confidence in the stability of the new order, and a safe transition to it from the old. The majority of the Committee therefore record it as their view that the conclusions reached in the Committee's Second Report form an appropriate basis for approach to the task of framing the constitutional definitions of the powers and interplay in the sphere of finance of the various elements which will compose the Federal Authority which they envisage, and that it would be premature at this stage to attempt to elaborate the application of these conclusions. While they are prepared to explore more fully the suggestion of an Advisory Finance Council, they cannot on the basis of the discussion that has taken place commit themselves to the view that such a Council would adequately secure the effective maintenance of confidence in the credit of India, which must be the essential test of the measures necessary in the sphere of finance.

## COMMERCIAL DISCRIMINATION.

16. On this subject the Committee are glad to be able to record a substantial measure of agreement. They recall that in paragraph 22 of their Report at the last Conference it was stated that there was general agreement that in matters of trade and commerce the principle of equality of treatment ought to be established, and that the Committee of the whole Conference at their meeting on January 19th, 1931, adopted the following paragraph as part of the Report of the Minorities sub-Committee :—

“ At the instance of the British commercial community the principle was generally agreed that there should be no discrimination between the rights of the British mercantile community, firms and companies trading in India, and the rights of Indian born subjects, and that an appropriate Convention based on reciprocity should be entered into for the purpose of regulating these rights.”

More than one member in the course of the discussion also reminded the Committee that the All-Parties Conference in 1928 stated in their Report that “ it is inconceivable that there can be any discriminating legislation against any community doing business lawfully in India.”

17. The Committee accept and re-affirm the principle that equal rights and equal opportunities should be afforded to those lawfully engaged in commerce and industry within the territory of the Federation, and such differences as have manifested themselves are mainly (though not entirely) concerned with the limits within which the principle should operate and the best method of giving effect to it.

Some, however, contend that the future Government should not be burdened with any restriction save that no discrimination should be made merely on the ground of race, colour or creed.

18. The Committee are of opinion that no subject of the Crown who may be ordinarily resident or carrying on trade or business in British India, should be subjected to any disability or discrimination, legislative or administrative, by reason of his race, descent, religion, or place of birth, in respect of taxation, the holding of property, the carrying on of any profession, trade or business, or in respect of residence or travel. “The expression “subject” must here be understood as including firms, companies and corporations

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\* As regards the interpretation of this sentence, see the remarks of Sri P. Thakurdas and Lord Sankey in the Plenary Session of 28th November on presentation of the Report.

carrying on business within the area of the Federation, as well as private individuals. The Committee are also of opinion that, *mutatis mutandis*, the principle should be made applicable in respect of the same matters so far as they fall within the federal sphere, in the case of Indian States which become members of the Federation and the subjects of those States.

The States representatives expressed themselves willing to accept this principle provided that those who claim equal rights under it do not ask for discrimination in their favour in the matter of jurisdiction and will submit themselves to the jurisdiction of the States.

19. It will be observed that the suggestion contained in the preceding paragraph is not restricted to matters of Commercial Discrimination only, nor to the European community as such. It appears to the Committee that the question of Commercial Discrimination is only one aspect, though a most important one, of a much wider question, which affects the interests of all communities alike, if due effect is to be given to the principle of equal rights and opportunities for all.

20. More than one member of the Committee expressed anxiety lest a provision in the constitution on the above lines should hamper the freedom of action of the future Indian Legislature in promoting what it might regard as the legitimate economic interests of India. The Committee do not think that these fears are well-founded. Key industries can be protected and unfair competition penalised without the use of discriminatory measures. The Committee are, however, of opinion that it should be made clear that where the Legislature has determined upon some system of bounties or subsidies for the purpose of encouraging local industries, the right to attach reasonable conditions to any such grant from public funds is fully recognised, as it was recognised in 1925 by the External Capital Committee, and is recognised to-day by the practice of the Government of India itself.

21. It should however also be made clear that bounties or subsidies, if offered, would be available to all who were willing to comply with such conditions as may be prescribed. The principle should be a fair field and no favour. Thus a good deal was said in the course of the discussion of the need for enabling Indian concerns to compete more effectively with larger and longer-established businesses, usually under British management and financed with British capital. Where the larger business makes use of unfair methods of competition, the general law should be sufficient to deal with it ; but many members of the Committee were impressed with the danger of admitting a



claim to legislate, not for the purpose of regulating unfair competition generally, but of destroying in a particular case the competitive power of a large industry in order to promote the interests of a smaller one.

A view was expressed by some members, with reference to this and the preceding paragraph, that so far as the grant of bounties and subsidies is concerned it must be within the competence of the Legislature to confine them to Indians or companies with Indian capital.

The position of others was that set out at the end of paragraph 17.

22. With regard to method, it appears to the Committee that the constitution should contain a clause prohibiting legislative or administrative\* discrimination in the matters set out above and defining those persons and bodies to whom the clause is to apply. A completely satisfactory clause would no doubt be difficult to frame, and the Committee have not attempted the task themselves. They content themselves with saying that (despite the contrary view expressed by the Statutory Commission in paragraph 156 of their Report) they see no reason to doubt that an experienced Parliamentary draftsman would be able to devise an adequate and workable formula, which it would not be beyond the competence of a Court of Law to interpret and make effective. With regard to the persons and bodies to whom the clause will apply, it was suggested by some that the constitution should define those persons who are to be regarded as "citizens" of the Federation, and that the clause should apply to the "citizens" as so defined; this indeed was a suggestion which had been made by the All-Parties Conference. There are however disadvantages in attempting to define the ambit of economic rights in terms of a political definition, and a definition which included a corporation or limited company in the expression "citizen" would be in any event highly artificial. The Committee are of opinion, therefore, that the clause should itself describe those persons and bodies to whom it is to be applicable on the lines of paragraph 18, and that the question should not be complicated by definitions of citizenship.

23. If the above proposals are adopted, discriminatory legislation would be a matter for review by the Federal Court. To some extent this would also be true of administrative discrimination; but the real safeguard against the latter must be looked for rather in the good faith and common sense of the different branches of the executive government, reinforced, where necessary, by the special powers vested in the Governor-General and the Provincial Governors. It is also plain that where the Governor-General or a Provincial Governor

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\* Two members would not include administrative discrimination within the scope of the clause.

is satisfied that proposed legislation, though possibly not on the face of it discriminatory, nevertheless will be discriminatory in fact, he will be called upon, in virtue of his special obligations in relation to minorities, to consider whether it is not his duty to refuse his assent to the Bill or to reserve it for the signification of His Majesty's pleasure.

24. The question of persons and bodies in the United Kingdom trading with India, but neither resident nor possessing establishments there, requires rather different treatment. Such persons and bodies clearly do not stand on the same footing as those with whom this Report has hitherto been dealing. Nevertheless, the Committee were generally of opinion that, subject to certain reservations, they ought to be freely accorded, upon a basis of reciprocity, the right to enter and trade with India. It will be for the future Indian Legislature to decide whether and to what extent such rights should be accorded to others than individuals ordinarily resident in the United Kingdom or companies registered there, subject of course to similar rights being accorded to residents in India and to Indian companies. It is scarcely necessary to say that nothing in this paragraph is intended to limit in any way the power to impose duties upon imports into India, or otherwise to regulate its foreign trade.

25. It had been suggested at the last Conference, and the suggestion was made again in the course of the discussion in the Committee, that the above matters might be conveniently dealt with by means of a Convention to be made between the two countries, setting out in greater detail than it was thought would be possible in a clause in an Act the various topics on which agreement can be secured. The idea is an attractive one, but appears to present certain practical difficulties. The Committee understand that the intention of those who suggested it is that the Convention, if made, should be scheduled to and become part of the Constitution Act. It was, however, pointed out that such a detailed Convention would be more appropriately made between the United Kingdom and the future Indian Government when the latter was constituted, and that, in any event, it seemed scarcely appropriate in a Constitution Act. On the other hand, the Committee are of opinion that an appropriately drafted clause might be included in the Constitution itself, recognising the rights of persons and bodies in the United Kingdom to enter and trade with India on terms no less favourable than those on which persons and bodies in India enter and trade with the United Kingdom.

26. In conclusion, there was general agreement (subject to the view of certain members, set out at the end of paragraph 17), to the proposal that property rights should be guaranteed in the constitution, and that provision should be made whereby no person can be deprived of his property, save by due process of law and

for public purposes, and then only on payment of fair and just compensation to be assessed by a Judicial Tribunal. In the case of the States, this principle may need some modification to avoid conflict with their internal rights. A provision of the kind contemplated appears to the Committee to be a necessary complement of the earlier part of this Report. Such a formula finds a place in many constitutions, and the form used in the Polish Constitution seemed to the Committee to be specially worthy of consideration.

Signed, on behalf of the Committee,

SANKEY.

ST. JAMES'S PALACE, LONDON.

*27th November, 1931.*

## MINORITIES COMMITTEE

(Second Session)

### COMPOSITION.

Mr. Ramsay MacDonald (Chairman).	Khan Bahadur H. Hidayat Hussain.
*Mr. Wedgwood Benn.	*Sir Muhammad Iqbal.
Mr. Isaac Foot.	Mr. N. M. Joshi.
*Mr. A. Henderson.	*Pandit M. M. Malaviya.
*Sir Samuel Hoare.	Sir Provash Chunder Mitter.
Sir William Jowitt.	Dr. B. S. Moonje.
Lord Peel.	*Mrs. Sarojini Naidu.
Lord Reading.	Diwan Bahadur Raja
*Lord Snell.	Narendra Nath.
Major Stanley.	Rao Bahadur A. T. Pannir
*Lord Zetland.	Selvam.
H.H. The Aga Khan	Sir A. P. Patro
*Sir Saiyed Ali Imam.	Diwan Bahadur Ramachandra
*Maulana Shaukat Ali.	Rao.
Dr. B. R. Ambedkar.	Mr. B. Shiva Rao
*Mr. E. C. Benthall.	Sir Sultan Ahmed.
*Mr. G. D. Birla.	Sir Muhammad Shafi.
Sir H. Carr.	Sardar Sampuran Singh.
†Mr. C. Y. Chintamani.	Mr. Srinivasa Sastri.
The Nawab of Chhitari.	Sir Chimanlal Setalvad.
*Maulvi M. Shafi Daoodi.	Sir Phiroze Sethna
*Dr. S. K. Datta.	Dr. Shafa'at Ahmad Khan.
Mr. Fazl-ul-Huq.	Begum Shah Nawaz.
*Mr. M. K. Gandhi.	Rao Bahadur Srinivasan.
Mr. A. H. Chuznavi.	Mrs. Subbarayan.
Sir Henry Gidney.	Sardar Ujjal Singh.
*Sir Padamji Ginwala.	Mr. Zafrullah Khan.

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\* Denotes new members.

† Did not attend the Second Session.

## SECOND REPORT OF MINORITIES COMMITTEE.

### REPORT.

The Report of sub-Committee No. III (Minorities) approved by the Committee of the whole Conference on 19th January, 1931, recorded that opinion was unanimous "that in order to secure the co-operation of all communities which is essential to the successful working of responsible government in India, it was necessary that the new constitution should contain provisions designed to assure the communities that their interests would not be prejudiced, and that it was particularly desirable that some agreement should be come to between the major communities in order to facilitate the consideration of the whole question." In these circumstances, it recommended that "the Conference should register an opinion that it was desirable that an agreement upon the claims made to it should be reached and that the negotiations should be continued between the representatives concerned, with the request that the result of their efforts should be reported to those engaged in the next stage of these negotiations."

2. The Committee resumed its deliberations on 28th September, and met subsequently on 1st October, 8th October and 13th November. It had the assistance in its discussions of the representative of the Congress Party.

3. At the first meeting of the resumed Committee on 28th September it was reported that informal negotiations were proceeding between certain of the communities concerned, and after discussion it was unanimously agreed that, in order to give these negotiations an opportunity to reach a conclusion, the Committee should adjourn until 1st October. On its meeting on that day a further motion of adjournment until Thursday, 8th October, to enable the continuance of the negotiations, was moved by Mr. Gandhi and unanimously accepted. It was agreed that the problem of the Depressed Classes and other smaller minorities would form part of the communal problem which was to be the subject matter of the conversations.

4. At the third meeting of the Committee on Thursday, 8th October, Mr. Gandhi reported that the negotiations which had taken place had unfortunately proved entirely abortive, despite the utmost anxiety on the part of all concerned to reach a satisfactory outcome. After considerable discussion it was agreed that the Committee should be adjourned for a further period to enable fresh efforts to be made to reach agreement between the various interests affected. It was decided in this connection that two schemes designed to overcome the communal difficulties in connection with the position in the Punjab which had been prepared by Sardar Ujjal Singh and Sir Geoffrey Corbett should be circulated for the consideration of the Delegates. These schemes are printed as Appendices XVII and XVI to our Report. A scheme for the solution of the communal problem prepared by the Indian National Congress, to which reference was made by Mr. Gandhi at the meeting

of the Committee on 8th October, and which was subsequently circulated at his request, is printed as Appendix I.

5. No further meeting took place until 13th November. The intervening period was devoted to private negotiation. At the meeting on 13th November it appeared, however, that despite every effort on the part of the negotiators, it had unfortunately proved impossible to devise any scheme of such a character as to satisfy all parties. The representatives of the Muslims, Depressed Classes, Anglo-Indians, a section of the Indian Christians\* and the European commercial community intimated that they had reached an agreement *inter se*, which they formally presented for the consideration of the Committee, and which is printed as Appendix III to this Report. But the course of the discussion on 13th November made it clear that the agreement in question was not regarded as acceptable by the Hindu or Sikh representatives, and that there seemed no prospect of a solution of the communal question as the result of negotiation between the parties concerned.

6. The Committee has, in these circumstances, to record with deep regret that it has been unable to reach any agreed conclusion on the difficult and controversial question which has been the subject of its deliberations.

7. It was agreed at the meeting of 13th November that statements or proposals which had been submitted by the representatives of various interests with the object of finding a satisfactory solution of the problem before the Committee or of inviting attention to aspects of that problem of special importance to the community they represented, should be appended to the Report of the Committee. The documents in question are accordingly printed as Appendices.

8. During the various discussions suggestions were made that the British Government should settle the dispute on its own authority. These suggestions, however, were accompanied by such important reservations that they afforded little prospect of any such decision securing the necessary harmony in working, but the Prime Minister, as Chairman of the Committee, offered to act, and give a decision of temporary validity, if he were requested to do so by every member of the Committee signing an agreement to pledge himself to support his decision so as to enable the constitution to be put into operation, further efforts for an all-Indian settlement being pursued in the meantime.

Signed, on behalf of the Committee,

J. RAMSAY MACDONALD.

*St. James's Palace, London.*

*18th November, 1931.*

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\* Rao Bahadur A. T. Pannir Selvam subscribed to the Agreement, from which, however, Dr. S. K. Datta expressed dissent in the Minorities Committee.

## APPENDIX I.

**THE CONGRESS SCHEME FOR A COMMUNAL SETTLEMENT.**

*(Circulated at the request of Mr. M. K. Gandhi.)*

However much it may have failed in the realisation, the Congress has, from its very inception, set up pure nationalism as its ideal. It has endeavoured to break down communal barriers. The following Lahore resolution was the culminating point in its advance towards nationalism :—

“ In view of the lapse of the Nehru Report it is unnecessary to declare the policy of the Congress regarding communal questions, the Congress believing that in an independent India communal questions can only be solved on strictly national lines. But as the Sikhs in particular, and the Muslims and the other minorities in general, have expressed dissatisfaction over the solution of communal questions proposed in the Nehru Report, this Congress assured the Sikhs, the Muslims and other minorities that no solution thereof in any future constitution will be acceptable to the Congress that does not give full satisfaction to the parties concerned.”

Hence, the Congress is precluded from setting forth any communal solution of the communal problem. But at this critical juncture in the history of the Nation, it is felt that the Working Committee should suggest for adoption by the country a solution though communal in appearance, yet as nearly national as possible and generally acceptable to the communities concerned. The Working Committee, therefore, after full and free discussion, unanimously passed the following scheme :—

1. (a) The article in the constitution relating to Fundamental Rights shall include a guarantee to the communities concerned of the protection of their cultures, languages, scripts, education, profession and practice of religion and religious endowments.

(b) Personal laws shall be protected by specific provisions to be embodied in the constitution.

(c) Protection of political and other rights of minority communities in the various Provinces shall be the concern and be within the jurisdiction of the Federal Government.

2. The franchise shall be extended to all adult men and women.

(Note A.—The Working Committee is committed to adult franchise by the Karachi resolution of the Congress and cannot entertain any alternative franchise. In view, however, of misapprehensions in some quarters, the Committee wishes to make it clear that in any event the franchise shall be uniform and so extensive as to reflect in the electoral roll the proportion in the population of every community.)

3. (a) Joint electorates shall form the basis of representation in the future constitution of India.

(Note B.—Wherever possible the electoral circles shall be so determined as to enable every community, if it so desires, to secure its proportionate share in the Legislature.)\*

(b) That for the Hindus in Sind, the Muslims in Assam and the Sikhs in the Punjab and N.W.F.P. and for Hindus and Muslims in any Province where they are less than 25 per cent. of the population, seats shall be reserved in the Federal and Provincial Legislatures on the basis of population with the right to contest additional seats.

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\* Note B is not part of the scheme but has been added by me as not being inconsistent with the scheme.  
(Intld.) M.K.G.

4. Appointments shall be made by non-party Public Service Commissions which shall prescribe the minimum qualifications, and which shall have due regard to the efficiency of the Public Service as well as to the principle of equal opportunity to all communities for a fair share in the Public Services of the country.

5. In the formation of Federal and Provincial Cabinets interests of minority communities should be recognised by convention.

6. The N.W.F. Province and Baluchistan shall have the same form of government and administration as other Provinces.

7. Sind shall be constituted into a separate Province, provided that the people of Sind are prepared to bear the financial burden of the separated Province.

8. The future constitution of the country shall be federal. The residuary powers shall vest in the federating Units, unless, on further examination, it is found to be against the best interest of India.

The Working Committee has adopted the foregoing scheme as a compromise between the proposals based on undiluted communalism and undiluted nationalism. Whilst on the one hand the Working Committee hopes that the whole Nation will endorse the scheme, on the other, it assures those who take extreme views and cannot adopt it, that the Committee will gladly, as it is bound to by the Lahore resolution, accept without reservation any other scheme, if it commands the acceptance of all the parties concerned.

*October 28th, 1931.*

## APPENDIX II.

### MEMORANDUM ON THE CONGRESS FORMULA OF COMMUNAL SETTLEMENT.

*By Dr. B. S. Moonje.*

On behalf of the Hindu Mahasabha, I, as its working president, hereby express my whole-hearted approval to the assurance given by the Congress, that "no solution thereof (*i.e.*, of communal question) in any future constitution will be acceptable to the Congress that does not give full satisfaction to the parties concerned."

As for the details of the scheme, of the communal solution, I have to suggest amendments as follows :—

(1) In clause 1 (a) and (b) regarding the fundamental rights, the following should be added as (c) :—

"None shall be prejudiced by reason of his caste or creed in acquiring or enjoying civil and economic rights including the right of owning, purchasing or disposing of landed estates in the open market, and of freedom of choice of any profession or calling, and all laws existing at present, and acting prejudicially to the enjoyment of these rights should automatically lapse."

(2) In clause 2, note (a), the words "if possible" be added after the words "so extensive as to reflect." The object is to remove the ambiguity of the meaning of the note as it stands. It should clearly mean that in any event the franchise should be uniform, irrespective of the fact whether it reflects or does not reflect in the electoral roll the proportion in population of every community.



- (3) The clause 3 (b) should be modified as follows :—

That in any scheme of minority protection by reservation of seats, no minority community in any Province should have reservation below its population strength and it must have the right to contest additional seats

- (4) The clause 4 be modified as follows :—

(a) That no person shall be under any disability for admission to any branch of Public Service merely by reason of his religion or caste

(b) That in any Province and in connection with the Central Government, a Public Service Commission be appointed and recruitment to Public Services be made by such a Commission on considerations of highest efficiency and qualification available for any particular Service, thereby securing the twofold object of maintaining the Services on a high level of efficiency, and leaving open a fair field for competition to all communities to secure fair representation.

Minimum qualification will not make for efficiency. Public Services constitute the soul of Swarajya. We cannot afford to put up with less efficiency in our Swarajya than at least what prevails at present under British responsibility. But if we aspire, as we should, to have our Swarajya prospering in competition with that of Nations of Europe and America, we ought not to think lightly of efficiency even with the object of placating this or that so-called backward community. Considerations, therefore, of maintaining efficiency in administration at the highest possible standard makes it obligatory to demand the highest necessary qualification from those who offer themselves for recruitment to Public Services irrespective of considerations of caste or creed.

(c) That membership of any Community caste or creed should not prejudice any person for purposes of recruitment, or be a ground for promotion or supersession in any Public Service.

- (5) The clause 5 be modified as follows :—

That as regards formation of Federal and Provincial Cabinets, political exigencies will inevitably lead to proper conventions, suitable to the conditions then existing in the different Legislatures. Therefore without interfering with the constitutional freedom of party leaders who have to form Cabinets, in the choice of their Ministers, representatives of minorities of considerable numbers should, as far as possible, be included in the formation of Central and Provincial Cabinets.

- (6) The clause 7 be modified as follows :—

As is freely and unreservedly admitted by no less a person than Sir Shah Nawaz Bhutto, a most influential representative of the Sind Muslims in the Round Table Conference, in his interview published in the Times of India, August 1st, 1931, "question of separation of Sind is not the creation of outside politicians, nor is it a part of communal politics." Therefore the question should have no bearing whatsoever on what is known as the problem of communal settlement. It should be considered purely on merit, and it cannot be so considered unless the problem is entrusted for consideration to a Boundaries Commission of experts. If, however, the Government were to accept the separation of Sind, ignoring the opposition of the Hindus of Sind, who have not been given any representation on this Round Table Conference, and the Hindu Mahasabha, to placate the Muslims, it will then be impossible to resist the claim of Sikhs for accepting their scheme of the partition of the Punjab to satisfy the Sikhs.

(7) The clause 8 dealing with the question of residuary powers should be modified as follows : —

That the question of vesting the residuary powers in the federating Units or in the Central Government is in essence a purely constitutional problem, and thus the opinion of the constitutional experts should prevail. But broadly speaking, it shall be in the best interest of the country as a whole that they should be vested in the Central Government rather than in the federating Units. A strong Central Government is the only sure protective agent of the constitutional rights and liberties of the federating Units.

(8) As for the general question of joint versus separate electorates it should be noted that the scheme of separate electorates was devised for the protection of the minority community. A community which is in majority in any Province is not therefore legitimately entitled to demand separate electorates. But the Hindu Mahasabha has a fundamental objection to the system of separate electorates, and thus we cannot agree to it for reasons which have been so eloquently expressed by Sir Austen Chamberlain in the League of Nations in the following words :—

“ It was certainly not the intention of those who have devised the system of minority protection, to establish in the midst of a Nation a community which would remain permanently estranged from national life. The object of minorities treaties was to secure that measure of protection and justice for the minorities which would gradually prepare them to be merged in the national community to which they belong.”

It is well worth to quote here also what the Greek representative, Mr. Dendramis, in the Council of the League of Nations said :—“ The authors of the treaties (Minorities Treaties) had not intended to create a group of citizens who would collectively enjoy special rights and privileges ; they had intended to establish equality of treatment between all nationals of a State. If privileges were granted to the minority in any country, inequality would be created between this minority and the majority. The latter would be oppressed by the minority, and it would then be the majority which would have to engage the attention of the League of Nations.”

It is perhaps not generally known that the total number of the Muslims (about 20 millions) living in the Provinces with the Hindu majority is very much smaller than that of the Hindus (about 30 millions) who live in the Provinces with Muslim majority. But the Hindus have always felt the confidence of being able to hold their own in competition with their Muslim majorities without the adventitious aids of protection such as separate electorates, etc.

But if the Government were still to maintain separate electorates for the Majority community in any Province, it should confer on the minorities of that Province the privilege of demanding joint electorates with the majority. If a minority community in any Province were thus to elect for joint electorates, the constitution should provide for the establishment of joint electorates in that case irrespective of the fact whether the majority community does, or does not, consent.

## APPENDIX III.

**PROVISIONS FOR A SETTLEMENT OF THE COMMUNAL PROBLEM,  
PUT FORWARD JOINTLY BY MUSLIMS, DEPRESSED CLASSES, INDIAN  
CHRISTIANS,\* ANGLO-INDIANS AND EUROPEANS.**

## CLAIMS OF MINORITY COMMUNITIES.

1. No person shall by reason of his origin, religion, caste or creed, be prejudiced in any way in regard to public employment, office of power or honour, or with regard to enjoyment of his civic rights and the exercise of any trade or calling.

2. Statutory safeguards shall be incorporated in the constitution with a view to protect against enactments of the Legislature of discriminatory laws affecting any community.

3. Full religious liberty, that is, full liberty of belief, worship observances, propaganda, associations and education, shall be guaranteed to all communities subject to the maintenance of public order and morality.

No person shall merely by change of faith lose any civic right or privilege, or be subject to any penalty.

4. The right to establish, manage and control, at their own expense, charitable, religious and social institutions, schools and other educational establishments with the right to exercise their religion therein.

5. The constitution shall embody adequate safeguards for the protection of religion, culture and personal law, and the promotion of education, language, charitable institutions of the minority communities and for their due share in grants-in-aid given by the State and by the self-governing bodies.

6. Enjoyment of civic rights by all citizens shall be guaranteed by making any act or omission calculated to prevent full enjoyment an offence punishable by law.

7. In the formation of Cabinets in the Central Government and Provincial Governments, so far as possible, members belonging to the Mussulman community and other minorities of considerable number shall be included by convention.

8. There shall be Statutory Departments under the Central and Provincial Governments to protect minority communities and to promote their welfare.

9. All communities at present enjoying representation in any Legislature through nomination or election shall have representation in all Legislatures through separate electorates and the minorities shall have not less than the proportion set forth in the Annexure but no majority shall be reduced to a minority or even an equality. Provided that after a lapse of ten years it will be open to Muslims in Punjab and Bengal and any minority communities in any other Provinces to accept joint electorates, or joint electorates with reservation of seats, by the consent of the community concerned. Similarly after the lapse of ten years it will be open to any minority in the Central Legislature to accept joint electorates with or without reservation of seats with the consent of the community concerned.

With regard to the Depressed Classes no change to joint electorates and reserved seats shall be made until after 20 years' experience of separate electorates and until direct adult suffrage for the community has been established.

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\* See also note by Dr. S. K. Datta, Appendix XVIII, page 112.

10. In every Province and in connection with the Central Government a Public Services Commission shall be appointed, and the recruitment to the Public Services, except the proportion, if any reserved to be filled by nomination by the Governor-General and the Governors, shall be made through such Commission in such a way as to secure a fair representation to the various communities consistently with the considerations of efficiency and the possession of the necessary qualifications. Instructions to the Governor-General and the Governors in the Instrument of Instructions with regard to recruitment shall be embodied to give effect to this principle, and for that purpose—to review periodically the composition of the Services.

11. If a Bill is passed which, in the opinion of two-thirds of the members of any Legislature representing a particular community affects their religion or social practice based on religion, or in the case of fundamental rights of the subjects if one-third of the members object, it shall be open to such members to lodge their objection thereto, within a period of one month of the Bill being passed by the House, with the President of the House who shall forward the same to the Governor-General or the Governor, as the case may be, and he shall thereupon suspend the operation of that Bill for one year, upon the expiry of which period he shall remit the said Bill for further consideration by the Legislature. When such Bill has been further considered by the Legislature and the Legislature concerned has refused to revise or modify the Bill so as to meet the objection thereto, the Governor-General or the Governor, as the case may be, may give or withhold his assent to it in the exercise of his discretion, provided, further, that the validity of such Bill may be challenged in the Supreme Court by any two members of the denomination affected thereby on the grounds that it contravenes one of their fundamental rights.

#### SPECIAL CLAIMS OF MUSSULMANS.

A. The North-West Frontier Province shall be constituted a Governor's Province on the same footing as other Provinces with due regard to the necessary requirements for the security of the Frontier.

In the formation of the Provincial Legislature the nominations shall not exceed more than 10 per cent. of the whole.

B. Sind shall be separated from the Bombay Presidency and made a Governor's Province similar to and on the same footing as other Provinces in British India.

C. Mussulman representation in the Central Legislature shall be one-third of the total number of the House, and their representation in the Central Legislature shall not be less than the proportion set forth in the Annexure.

#### SPECIAL CLAIMS OF THE DEPRESSED CLASSES.

A. The constitution shall declare invalid any custom or usage by which any penalty or disadvantage or disability is imposed upon or any discrimination is made against any subject of the State in regard to the enjoyment of civic rights on account of Untouchability.

B. Generous treatment in the matter of recruitment to Public Service and the opening of enlistment in the Police and Military Service.

C. The Depressed Classes in the Punjab shall have the benefit of the Punjab Land Alienation Act extended to them.

D. Right of Appeal shall lie to the Governor or Governor-General for redress of prejudicial action or neglect of interest by any Executive Authority.

E. The Depressed Classes shall have representation not less than set forth in the Annexure.

## SPECIAL CLAIMS OF THE ANGLO-INDIAN COMMUNITY.

A. Generous interpretation of the claims admitted by sub-Committee No. VIII (Services) to the effect that in recognition of the peculiar position of the community special consideration should be given to the claim for public employment, having regard to the maintenance of an adequate standard of living.

B. The right to administer and control its own educational institutions, i.e., European education, subject to the control of the Minister.

Provisions for generous and adequate grants-in-aid and scholarships on the basis of present grants.

C. Jury rights equal to those enjoyed by other communities in India unconditionally of proof of legitimacy and descent and the right of accused persons to claim trial by either a European or an Indian jury.

## SPECIAL CLAIMS OF THE EUROPEAN COMMUNITY.

A. Equal rights and privileges to those enjoyed by Indian-born subjects in all industrial and commercial activities.

B. The maintenance of existing rights in regard to procedure of criminal trials, and any measure or bill to amend, alter, or modify such a procedure cannot be introduced except with the previous consent of the Governor-General.

Agreed by :—

HIS HIGHNESS THE AGA KHAN (Muslims),

DR. AMBEDKAR (Depressed Classes),

RAO BAHADUR PANNIR SELVAM (Indian Christians).

SIR HENRY GIDNEY (Anglo-Indians),

SIR HUBERT CARR (Europeans)

# ANNEXURE.

## REPRESENTATION IN LEGISLATURES.

Figures in brackets = Population basis 1931 figures and depressed percentages as per Simon Report.

	Strength of Chamber	Hindu.			Muslims.	Christians.	Sikhs.	Anglo-Indians.	Tribal, etc.	Europeans.	
		Cast.	De-pressed.	Total.							
<i>Centre.</i>											
All India (1931)	200	(47·5)	(19)*	(66·5)	(21·5)						* Represents percentage in Governor's Provinces of B.I.
Upper ..		101	20	121	67	1	6	1	—	4	
Lower ..	300	123	45	168	100	7	10	3	—	12	
Assam ..	* 100	(48·9)	(13·4)	(62·3)	(34·8)	3	—	1	—	10	*Pop. figures exclude Tribal Areas.
		38	13	51	35						
Bengal ..	200	(18·3)	(24·7)	(43)	(54·9)	2	—	3	—	20	
		38	35	73	102						
Bihar and Orissa ..	100	(67·8)	(14·5)	(82·3)	(11·3)	1	—	1	3	5	
		51	14	65	25						
Bombay ..	200	(68)	(8)	(76)	(20)	2	—	3	—	13	On Sind being separated weightage Mussulmans in Bombay to be on the same footing as to the Hindus in the N.W.F.P.
		88	28	116	66						

## ANNEXURE.

## REPRESENTATION IN LEGISLATURES.

Figures in brackets = Population basis 1931 figures and depressed percentages as per Simon Report.

	Strength of Chamber	Hindu.			Muslims.	Christians.	Sikhs.	Anglo-Indians.	Tribal, etc.	Europeans.
		Cast.	De-pressed.	Total.						
C.P. ..	100	(63·1) 58	(23·7) 20	(86·8) 78	(44) 15	1	—	2	2	2
Madras ..	200	(71·3) 102	(15·4) 40	(86·7) 142	(7·1) 30	(3·7) 14	—	4	2	8
Punjab ..	100	(15·1) 14	(13·5) 10	(28·6) 24	(56·5) 51	1·5	(13) 20	1·5	—	2
U.P. ...	100	(58·1) 44	(26·4) 20	(84·5) 64	(14·8) 30	1	—	2	—	<del>4</del> 3

Sind and N.W.F.P. Weightage similar to that enjoyed by the Mussulmans in the Provinces in which they constitute a minority of the population, shall be given to the Hindu minority in Sind and to the Hindu and Sikh minorities in the N.W.F.P.

## EXPLANATORY MEMORANDUM TO APPENDIX III.

1. The suggested details for community representation have not been agreed by the Hindus or the Sikhs, but the full representation claimed by the latter in the Central Legislature is provided for.

2. The proposed distribution of seats for the different minorities constitutes a whole scheme and the detailed proposals cannot be separated one from another.

3. This distribution of seats follows the principle that in no case is the majority community to be reduced to the position of a minority or even equality.

4. No representation is provided for Commerce, Landlords, Industry, Labour, etc., it being assumed that these seats are ultimately communal and that communities desiring special representation for these interests may do so out of the communal quota.

5. The allowance of 33½ per cent. representation to Muslims in the Central Legislature is based on the assumption that 26 per cent. shall be from British India and at least 7 per cent. by convention out of the quota assigned to the Indian States.

6. In the Punjab the suggested common sacrifice by the Muslims, Caste Hindus and the Depressed Classes, would permit of a weightage of 54 per cent. being given to the Sikhs, giving them representation of 20 per cent. in the Legislature.

7. The proposals may be taken as being acceptable to well over 115 millions of people, or about 46 per cent. of the population of India.

## APPENDIX IV.\*

**SIKHS AND THE NEW CONSTITUTION FOR INDIA.**

*Memorandum by Sardar Ujjal Singh and Sardar Sampuran Singh.*

The Sikhs are an important and distinct community, mainly concentrated in the Punjab, of which they were the rulers until 1849. Sikhism recognises no caste and strictly enjoins upon those who profess it to treat all human beings as equal. In religious ideals and social practices they are as different from the Hindus as the Muslims are.

The Simon Commission states: "Sikhism remained a pacific cult until the political tyranny of the Mussulmans and the social tyranny of the Hindus converted it into a military creed. It is a striking circumstance that this small community contributed no less than eighty thousand men" (actually, 89,000 combatant recruits, in addition to 30,000 already serving when war broke out) "to serve in the Great War—a larger proportion than any other community in India."

The Sikhs play a great part in the economic and civic life of the country. In the Punjab, with three million population (13 per cent. of the whole), the Sikhs pay 25 per cent. of the land revenue and 40 per cent. of the land revenue and water rates combined, the main source of the Provincial Exchequer. They maintain at their own expense over 400 schools and 3 colleges, open to all communities and classes without distinction. They have got a large number of holy shrines, which are the centres of Sikh culture and tradition.

\* See also Appendix XIX.



The Sikhs claim that their interests should be adequately and effectively protected in the future constitution. On account of their unrivalled position in the Punjab—historical, political and economic—they claim 30 per cent. representation in the Provincial Legislature. This demand is not unreasonable when it is remembered that the Muslim minority in the United Provinces, with a corresponding population, are enjoying 31 per cent. At the last Round Table Conference, in a spirit of accommodation, we came down to 24 per cent. The Muslims, wherever they are a minority, claim weightage. In the Punjab they claim to have their majority ensured by Statute. The Simon Report observes : " It would be unfair that Muhammadans should retain the very considerable weightage they now enjoy in the six Provinces, and that there should at the same time be imposed, in face of Hindu and Sikh opposition a definite Muslim majority in the Punjab and in Bengal unalterable by any appeal to the electorate." Moreover, the Muslims' demand for this majority is made on a basis of separate electorates, which means that the other two communities could not even influence the permanent majority, chosen as it would be by constituents swayed by none but communal motives and aims. It is a denial of the fundamental rights of a community that it should be put in a position which allowed of no peaceful method of appeal against a government that proved itself incompetent or partisan, especially if that government was so constituted as to stereotype and perpetrate religious differences which go back to bitter memories. In view of the claim of the President of the last All-India Muslim Conference, we believe that to write the garrison Province of India into the constitution as an unalterably Muslim Province would be to make the dismemberment of India inevitable. That claim, it will be remembered, was that there should be a " consolidated North-West State, within or without the British Empire," consisting of the Punjab, North-West Frontier Province, Baluchistan and Sind. We cannot accept a constitution which relegates us for all time to the position of an ineffective opposition.

If the Muslims refuse to accept in this Province, where they are in a slight majority in population (56 per cent.), anything but their present demand of a reserved majority, we ask for a territorial re-arrangement which would take from the Punjab the Rawalpindi and Multan divisions (excluding Lyallpur and Montgomery districts). These divisions are overwhelmingly Muslim, as well as racially akin to the North-West Frontier Province ; their inclusion in the Punjab is a recent thing, due to conquest by Ranjit Singh. These overwhelmingly Muslim districts, with a population of seven millions can either form a separate Province, which will give the Muslims another majority Province, or be amalgamated with North-West Frontier. This re-arrangement would leave a Punjab of about sixteen millions in which no single community would have an absolute majority and each community would be obliged to conciliate the others. If this solution also is unacceptable to our Muslim brethren we should prefer no change from the present constitution in the Punjab.

A counter proposal of partition of the Punjab has emanated from Sir Geoffrey Corbett, which is open to serious economic and racial objections and which is based upon an absolute misunderstanding of the Sikh position. The main object of any scheme of territorial redistribution should be to satisfy the conflicting claims of the Muslims and the Sikhs in the Punjab. But this scheme seeks to increase still further the Muslim majority by the separation of Ambala division from the Punjab and thereby places the Sikhs in a far worse position than any in which they would find themselves in the existing Punjab. It is therefore entirely unacceptable to the Sikhs.

We summarise below the unanimous demands of the Sikh community for which any scheme of new constitution should make provision before it can be accepted by the Sikhs.

*Punjab.*

1. The Sikhs are anxious to secure a National Government and are therefore opposed to any communal majority by Statute or any reservation of seats by law for a majority community.

2. The Sikhs occupy an unrivalled position in the Punjab as is reflected by their sacrifices in the defence of India, and in national movements and their stake in the Province, and therefore demand 30 per cent. representation in the Punjab Legislature and Administration.

3. In the Punjab Cabinet and the Public Service Commission the Sikh community should have a one-third share.

4. If no agreement is reached on the above basis, the boundaries of the Punjab may be so altered by transferring predominantly Muhammadan areas to the Frontier Province so as to produce a communal balance. In this reconstituted Punjab there should be joint electorates, with no reservation of seats.

5. If neither of the above alternatives is acceptable, the Punjab may be administered by the newly constituted responsible Central Government till mutual agreement on the communal question is arrived at.

6. Punjabi should be the official language of the Province. It should be optional with the Sikhs and others to use Gurmukhi script if they so desire.

*Central.*

7. The Sikhs should be given 5 per cent. of the total number of seats reserved for British India in each of the Upper and Lower Houses.

8. There should always be at least one Sikh in the Central Cabinet.

9. In case an Army Council is constituted the Sikhs should be adequately represented on it.

10. The Sikhs have always had a special connection with the Army and therefore the same proportion of Sikhs should be maintained in the Army as before the War.

11. The Sikhs should have effective representation in the all-India Services and should be represented on Central Public Service Commission.

12. All residuary powers should vest in the Central Government.

13. The Central Government should have special specified powers to protect minorities.

*Other Provinces.*

14. The Sikhs should have the same weightage in other Provinces as is accorded to other minorities.

*General.*

15. The Provincial and Central Government should declare religious neutrality and while maintaining existing religious endowments should not create new ones.

16. The State should provide for teaching of Gurmukhi script where a certain fixed number of scholars is forthcoming.

17. Any safeguards guaranteed in the constitution for the Sikhs should not be rescinded or modified without their express consent.

*November 12th, 1931.*

## APPENDIX V.

**CLAIMS OF THE HINDU MINORITY OF THE PUNJAB.***Memorandum by Raja Narendra Nath.*

I enclose a Memorandum which sets forth the claims of the Hindu minority of the Punjab ; but I believe that my views are shared by the Hindus of all Provinces in which they are in a minority. I may here mention that the number of Hindus in Provinces in which they are in a minority (assuming that Sind is separated) comes up to nearly 29 millions, and the number of Muslims in which they are in a minority (proceeding on the assumption of the separation of Sind) comes to only about 20 millions. In a Federal system of government in which the Provinces are autonomous, the question of Minorities in Provinces assumes very great importance. The Hindu minority point of view deserves as much, if not greater, consideration than the point of view of the Muslim minority. A disregard of Hindu interests will create resentment and discontent among a larger number of human beings than a disregard of the interests of the Muslim minorities so far as Provincial Governments are concerned. The political leaders of different Parties in England have declared more than once that the future of the constitution of India must create a feeling of security among the minorities. No such feeling of security will be produced among the Hindus if the claims put forward in the enclosed Memorandum are disregarded.

The Memorandum is brief, and therefore does not deal with reasons on which the claims are based.

1. The Hindus look upon separate electorates as prejudicial to the interests of a minority community. But if the constitution must begin with separate electorates, and it is not provided that they cease after five years, then the Hindus want the following clause to be inserted in the constitution :—

For election to all elected bodies—

(i) The voters of a minority community shall be brought on the same register with the voters of another minority community if the members of the elected body representing the two minority communities pass a resolution or make a requisition to the Head of Government supported by a majority of two-thirds of each community severally that the change be made.

(ii) The voters of a minority community shall be brought on the same register with the voters of a majority community when the members belonging to the minority community in that body pass a resolution or make a requisition to the Head of the Government supported by a majority of two-thirds that the change be made.

(iii) In either case the change shall be made in the election next following.

Although the Hindu minority is better educated than most of the other minorities, they object to any plan of referendum on this point to the Hindu minority. The proposing of the resolution or the making of the requisition referred to in the above clause must be left to the discretion of the representatives of the electorates in the elected bodies.

I may here mention that the fear of the Punjab Muslims that even in tracts in which Muslims are in a majority, the Hindu minority, on account of their intelligence and wealth, will swamp the elections, is unfounded and is not borne out by the result of elections to the District Board. In districts in which Muslims predominate, Hindus fail in elections to the Board.

The Hindus of the Punjab have no objection to separate electorates for the Europeans and Anglo-Indians or for Christians and Depressed Classes. I doubt, however, if all these classes in the Punjab want separate electorates. In July last a Conference of Hindus, Sikhs and Christians was held at Lahore, which I attended, and resolutions in support of joint electorates were passed. On the 11th September last, whilst passing through Delhi, an Address was presented to me by the Depressed Classes in which they protested against their being separated from the Hindus. However, if there has been a change in their attitude and they want separate electorates in the Punjab, I have no objection.

2. The Hindus of the Punjab want reservation of seats, both in the Provincial Council and the Federal Assembly, in proportion to their population. If special constituencies are retained, as I presume they will be, only such constituencies should be reckoned in making up this proportion as have a majority of Hindu voters.

I may here remark, with regard to the population figures of the Depressed Classes and their proportion in the population of each Province, given at page 40 of Vol. I of the Report of the Statutory Commission, that the figures no longer hold good for the Punjab. Enormous increase has taken place in the Sikh and Muslim population of the Punjab, the number of Sikhs having gone up from 2,294,207 in 1921 to 3,064,144 in 1931, and the number of Muslims from 11,444,321 to 13,332,460, which means an annual increase during the last ten years of nearly 76,000 in the case of the Sikhs, and of 188,000 in the case of the Muslims. This extraordinary increase in the case of both these communities has presumably taken place by the absorption of Depressed Classes within their ranks. On the other hand, a new religious community designated "Adi-Dharmis" is shown in the census figures for the first time in the Punjab. This presumably represents the number of Depressed Classes or at least those who want to be separated from other religious communities. Their number is 399,307 or 1·7 per cent. of the total population of the Province. The proportions given in the Simon Report, therefore, cannot be taken as a guide so far as the Punjab is concerned.

3. I understand that a claim about the services has been put forward by other minorities. They want that a minimum standard of education should be fixed with due regard to efficiency, and that each community should have a fair and adequate share. The Hindu minority think that a vague provision like this will be prejudicial to their interests. A minimum standard of education "with due regard to efficiency" alludes to two incompatible factors. If efficiency has to be borne in mind, why should the requisite standard of education be low? The Hindus want that the constitution should contain a direction indicated in para. 105 of Despatch No. 44 of the Court of Directors, dated 10th December, 1834—"But the meaning of the enactment we take to be that there shall be no governing caste in India and that whatever tests of qualifications may be adopted *distinction of race and religion shall not be of the number.*"

No one, on account of his caste or creed, should be prejudiced in any way for recruitment to Public Services or for promotion to any office, but a proportion, the maximum of which may now be found, may be reserved for a certain number of years to redress communal inequalities and to suit backward classes. There is no need for lowering the general standard of efficiency for all recruits. The Government of India have reserved 33 per cent. of the appointments to the Imperial Services for this purpose. The same rule should be adopted with regard to the Provincial and Subordinate Services. The fixation of proportions should not be left to the discretion of the Head of the Executive or of the Public Services Commission to be appointed by him.

4. The Prime Minister in his speech dated 19th July, 1931, said as follows :—

“ In framing the constitution, His Majesty's Government considers it will be its duty to insert provisions guaranteeing to the various minorities, in addition to political representation, that differences of religion, race, sect or caste, shall not themselves constitute civic disabilities.”

The clause defining fundamental rights is all right, but I suggest the addition of the following words :—

“ and shall not prejudice anyone in the exercise and enjoyment of civic and economic rights.”

(See para. 3 of the last Report of the Minorities sub-Committee.)

November 13th, 1931.

## APPENDIX VI.

### MEMORANDUM.

By Dr. B. S. Moonje.\*

The Hindu Mahasabha's opinion on the Muslim demands is as follows :—

1. The Hindu Mahasabha holds strongly the view that communal representation is fundamentally opposed to nationalism and gradually creates an increasing desire for the assertion of communal difference in various departments of public administration. The Sabha also thinks that this principle is unsuited to responsible Government in which preferences based on communal distinctions are out of place. In the working of responsible Government full freedom should be given for the growth of healthy adjustments satisfactory to the desire of minorities to take their proper place in the public life of the country. These adjustments, however, are born of experience and are the result of goodwill and understanding, which must have some time given to them to assert themselves. The Sabha, therefore, is of opinion that the future *Swaraj* in India should be laid on sound lines and no arrangements should be made here which will have the result, as experience shows, of increasing the communal tension, or of keeping the minorities in isolated compartments from one another or from the majority community. The Sabha, therefore, wishes to state that the following principles should be kept in view in framing any constitution for India :—

(a) That there shall be uniformity of franchise for all communities in each Province.

(b) That elections to all the elective bodies shall be by mixed electorates.

(c) That there shall be no reservations of seats on communal considerations on any of the elective bodies and educational institutions. But to start with, if a minority community in any Province were to demand a reservation of seats, such reservation may be granted only in the Legislatures for a short period.

(d) That the basis of representation of different communities shall be uniform, such as voting strength, taxation or adult population.

(e) That in no circumstances shall there be any reservation of seats in favour of any majority community in any Province.

(f) That the redistribution of Provinces in India, if and when necessary, shall be made on merits in the light of principles capable of a general application with due regard to administrative, financial and other similar considerations.

(g) That no new Provinces shall be created with the object of giving a majority therein to any particular community so that India may be evolved as one united nation, instead of being subdivided into Muslim India, Sikh India, Christian India and Hindu India.

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\* This Memorandum was first submitted during the First Session of the Conference.

2. Regarding the Muslim demand for separation of Sind, the Hindu Mahasabha, while agreeing to the principle of redistribution of Provinces as stated above in Section 1, sub-section 2, is opposed to it for the following reasons :—

(a) The creation of any new Provinces primarily or solely with a view to increase the number of Provinces in which a particular community shall be in majority is fraught with danger to the growth of sound patriotism in the country and will contribute to the growth of a sentiment favouring the division of India into different groups according to differences of religion.

(b) Redistribution of any Province without the consent and agreement of the two communities, Hindu and Muslim, is likely to increase the area of communal conflict and endanger the relations between the two communities not only in that Province, but throughout India. The Hindu community in Sind is against such separation.

(c) Separation of Sind will not only be financially a costly proposition, but would also arrest its economic development and its educational advancement. Besides, it will deprive the people of Sind of the many undeniable benefits of their association with the more advanced people of the Bombay Presidency in their economic as well as their political development.

(d) Sind, if separated, may not be able to bear the financial burden of carrying on a separate administration without help either from the Central or the Bombay Government.

(e) Bombay has invested large amounts of money, particularly in the Sukkur Barrage, and that alone will be a great impediment to separation, at any rate for some years to come.

3. Regarding the introduction of reforms in the North Western Frontier Provinces and Baluchistan on the same footing as the other Provinces, the Hindu Mahasabha has in principle no objection, but it considers it an impracticable proposition for the immediate future. The Hindu Mahasabha, therefore, proposes that immediate steps be taken to secure to the Province with as little delay as possible the benefits of a regular system of administration, both judicial and executive, so that the Province may be prepared for the reformed constitution.

4. As regards the demand for provision giving the Muslims an adequate share in the Public Services of the State, the Hindu Mahasabha holds that there shall be no communal representation in the Public Service, which must be open to all communities on the basis of merit and competency, ascertained through open competitive taste.

5. As regards the Muslim demand that no Cabinet, either Central or Provincial shall be formed without there being a proportion of Muslim Ministers, the Hindu Mahasabha cannot approve of the proposal, as it is a negation of the wholesome principle of joint responsibility of the Cabinet. In the future responsible Government the Cabinet will be formed by the Chief Minister selecting his own men, as in other self-governing countries. The Hindu Mahasabha, therefore, is of opinion that nothing shall be done to fetter his freedom to make his own selection of his colleagues on the Cabinet. He will naturally select such colleagues irrespective of their communities as will ensure strength and stability to the Cabinet.

6. As regards representation of minorities in the Legislatures, Central or Provincial, the Hindu Mahasabha stands for joint electorates, and a temporary provision for, say, the lifetime of the next two Legislatures, for

reservation of seats for the minorities on the basis of their adult population or their voting strength, whichever shall be favourable to them. The system of reservation shall automatically disappear after the lapse of the period fixed.

7. Regarding the demand for vesting residuary powers in the Provincial Governments, the Hindu Mahasabha cannot agree to it, and stands for strong Central Government.

8. The Hindu Mahasabha stands for full religious liberty, *i.e.*, liberty of belief, worship, observance, propaganda, association and education to be guaranteed to all communities alike, provided these rights are not exercised in such a way as to be provocative, offensive or obstructive to others.

9. The Hindu Mahasabha believes in the potency of joint electorates to further the cause of evolution of India as one united nation, but if the Muslims believe that they cannot do without separate electorates the Hindu Mahasabha will be reluctantly obliged to agree to it, provided that the Muslims adhere to the Lucknow Pact, and its provisions are not contravened or exceeded. The Hindu Mahasabha is of the opinion that it would be unfair to allow the Muslims to take all the benefits given to them under that arrangement for separate electorates, and also to claim other concessions.

10. The above statement is without prejudice to the Hindu Mahasabha's contention that the Muslims in India, having regard to their numerical strength and other circumstances, are not a minority of such a nature as the League of Nations has in view when it considers the claims of minorities. The Muslims in India are a numerically strong, well organised, vigorous and potent body with great facilities for self-development. There are other minorities like the Depressed Classes, Christians, Parsees, etc., who are infinitely weaker than the Muslims in all material respects, and the Sabha thinks it would be difficult to resist the claims of these minorities to concessions similar to those demanded by the Muslims if these are granted to the Muslims. The Sabha is anxious that India should not be split up on the very threshold of a new constitution, besides the Sabha is and always has been willing that all minorities, including the Muslims, which require special protection in the matter of religion, education and culture, should have the fullest opportunities for self-development, self-expression and self-protection. On a perusal of the arrangements made by the League of Nations in the case of many minorities in new provinces formed in Europe after the War, it will be clear that in no case have any claims been allowed like those the Muslims are putting forward in India.

11. The Sabha is willing that the whole of the Hindu-Muslim problem should be referred to individuals, or to a body like the League of Nations, who have dealt with such questions in the past, and have experience of them in other countries. It is necessary that the Hindu-Muslim problem should be examined by impartial men, who have experience of such questions, and who will have the courage to solve them with impartiality.

12. The Hindu Mahasabha here feels the need of emphasising the point that the League of Nations, while providing for full legitimate protection to the minorities in matters concerning their religion, culture and social customs, has scrupulously refrained from discriminating the nationals of a State on the basis of their religions, cultures or languages, as is demanded by the Muslims of India in the public administration of the country, where, according to the League of Nations, principles of freedom and equality in the political, economic and legal spheres should prevail.

The Sabha concludes this statement by saying that in the solution of this communal question the caution must ever be borne in mind which was voiced

by an expert of the League of Nations who was called upon to examine the minorities question, in his report as follows :—

“ It seems to me obvious that those who conceived this system of protection (of minorities) did not dream of creating within certain States a group of inhabitants who would regard themselves as permanently foreign to the general organisation of the country. . . . . We must avoid creating a State within a State, we must prevent the minority from transforming itself into a privileged class, and taking definite form as a foreign group instead of becoming fused in the society in which it lives. If we take the exaggerated conception of the autonomy of minorities to the last extreme, these minorities will become a disruptive element in the State and a source of national disorganisation.”

## **SUPPLEMENTARY STATEMENT BY Dr. B. S. MOONJE.**

### **FUNDAMENTAL RIGHTS.**

1. The Hindu Mahasabha stands for making provision in the constitution for full protection of the different cultures, religions, languages, script and personal laws of the different minorities.

2. As for civic and economic rights none shall be prejudiced by reason of his caste or creed in acquiring or enjoying those rights which should expressly include the rights of owning, purchasing or disposing of landed properties in the open market without any restrictions of any kind whatsoever and of freedom of choice of any profession or calling. All laws existing at present in India based on caste discriminations similar to those existing in Kenya based on colour prejudices and are acting prejudicially to the enjoyment of these rights should automatically lapse.

That no person shall be under any disability for admission to any branch of public service merely by reasons of his religion or caste.

Membership of any community or caste or creed should not prejudice any person for purposes of recruitment to public services or be a ground for non-admission, promotion or supersession in any public service.

### **RECRUITMENT TO PUBLIC SERVICES.**

3. As for the method of recruitment to public services, there should be appointed a Public Services Commission in every Province and in connection with the Central Government. The recruitment to public services should be made by such a Commission on considerations of highest efficiency and qualifications necessary and available for any particular service, by open competition, thereby securing the two-fold object of maintaining the services on a high level of efficiency and leaving open a fair field of competition to all communities to secure fair representation.

Minimum qualifications will not make for efficiency. The public services constitute the soul of self-Government. It will not be safe to have less efficiency in administration than at least what prevails at present under British responsibility ; but if the aspiration be, as it should be, to have our self-government in India prospering in competition with that of the nations of Europe and America it will not do to think lightly of efficiency even with the object of placating this or that so-called backward community. Considerations therefore of maintaining efficiency in administration at the highest possible standard make it obligatory to demand the highest necessary qualifications from those who offer themselves for recruitment to public services, irrespective of caste or creed.



## FRANCHISE.

4. As for Franchise, it may be made as extensive as possible but it should be uniform for all communities in each Province irrespective of the fact whether it does or does not reflect in the electoral roll the proportion in population of every community in the Province.

## ELECTORATES, JOINT OR SEPARATE.

5 As for the general question of joint versus separate electorates it should be noted that the scheme of separate electorates was devised for the protection of a minority community. A community which is in majority in any Province is not therefore legitimately entitled to demand separate electorates. But the Hindu Mahasabha has a fundamental objection to the system of separate electorates and thus cannot agree to it for reasons which have been so eloquently given expression to by Sir Austen Chamberlain in the League of Nations in the following words :—

“It was certainly not the intention of those who have devised the system of the minorities protection to establish in the midst of a nation a community which would remain permanently estranged from national life. The object of the Minorities Treaty was to secure that measure of protection and justice for the minorities which would gradually prepare them to be merged in the national community to which they belong.”

In this connection it is well worth quoting what the Greek representative, Mr. Dendramis, in the Council of the League of Nations, has said :—

“The authors of the treaties (Minorities Treaties) had not intended to create a group of citizens who would collectively enjoy special rights and privileges. They had intended equality of treatment between all the nationals of a State. If privileges were granted to minorities in any country, inequality would be created between this minority and the majority. The latter would be oppressed by the minority and it would then be the majority which would have to engage the attention of the League of Nations.

This description will very appropriately apply to the situation in India that will arise if the Muslim demands are conceded. It is perhaps not generally known that the total number of Muslims (about twenty millions) living in the Provinces with Hindu majority is very much smaller than that of the Hindus (about thirty millions) who live in Provinces with Muslim majority. But the Hindus have always felt the confidence of being able to hold their own in competition with their Muslim majorities, without the adventitious aids of protection, such as separate electorates, reservation in services, etc.

The Constitutional difficulty that is created by the Moslem demand for separate electorates cannot be brought to light more vividly than in the following words of the Prime Minister in his speech in the House of Commons in January last :—

“If every constituency is to be ear-marked, as to community or interest, there will be no room left for the growth of what we consider to be purely political organisations which would comprehend all the communities, all creeds, all conditions of faith . . . . If India is going to develop a robust political life, there must be room for national political parties based upon conceptions of India's interests and not upon the conceptions regarding the well-being of any field that is smaller or less comprehensive than the whole of India.”

But if the Government were still to maintain separate electorates for the majority community in any Province, it should at least confer on the minorities of that Province the privilege of demanding joint electorates with the majority. If a minority community in any Province were thus to elect for joint electorates the constitution should provide for the establishment of joint electorates in that case irrespective of the consent thereto of the majority community.

## PROTECTION OF MINORITIES.

6. The Hindu Mahasabha being fundamentally opposed to separate electorates, and to provision of protection by reservation of seats for a majority community in any Province, if any scheme of minority protection be devised by reservation of seats in the joint electorates, then no minority community in any Province should have reservation below its population strength, and it must also have the right to contest additional seats on equal terms with all others.

## WEIGHTAGE IN REPRESENTATION.

7. As for the demand for weightage in representation, it is impossible to entertain the proposal in view of the entirely separatist mentality which has inspired the demands. The impracticability of the demand cannot be emphasised in better words than in those of no less a person than the Prime Minister himself who says in his speech in the House of Commons :—

“It is very difficult again to convince these very dear delightful people that if you give one community weightage, you cannot create weightage out of nothing. You have to take it from somebody else. When they discover that, they become confused indeed and find that they are up against a brick wall.”

But if the principle of weightage be still maintained it would be only proper and just that uniformity be observed in fixing the proportion of weightage for all minorities.

## FORMATION OF CABINETS.

8. As regards formation of Central, Federal and Provincial Cabinets, political exigencies will inevitably lead to proper conventions suitable to the conditions then existing in the different Legislatures. Therefore, without interfering with the constitutional freedom of the party leaders who are to form the Cabinets, in the choice of their Ministers, representatives of the minorities of considerable numbers should as far as possible be included in the formation of Central and Provincial Cabinets.

## RESIDUARY POWERS.

9. As regards the question as to whether the residuary powers should be vested in the Federating units or in the Central Government, it is in essence a purely constitutional problem, where opinions of constitutional experts should prevail. But broadly speaking it will be in the best interests of the country as a whole that they should be vested in the Central Government rather than in the Federating units. A strong Central Government is the only sure protecting agent of the constitutional rights and liberties of the Federating units and also of the minorities in the Provinces.

## SEPARATION OF SIND.

10. As for the question of separation of Sind, it is freely and unreservedly admitted by no less a person than Sir Shah Nawaz Bhutto, a most influential representative of the Sind Muslims on the Round Table Conference, in his interview published in the *Times of India* of August 1st, 1931, that “the question of the separation of Sind is not the creation of the outside politicians nor is it a part of the communal politics.” Therefore the question should have no bearing whatsoever on what is known as the problem of communal settlement. It should be considered purely on merit and it cannot be so considered unless the problem is entrusted to a Boundaries Commission of experts.

In this connection it ought to be noted that there was no representative of the Sind Hindus on the Round Table Conference and its Sind sub-Committee. The decision of the Committee therefore is regarded by the Hindus of Sind

as *ex parte*, and is repudiated by them and the Hindu Mahasabha as such. If, however, the Government were still to accept the separation of Sind, ignoring the protests of the Sind Hindus and the Hindu Mahasabha, simply to placate the Muslims, it would then be impossible to resist the claim of Sikhs for accepting their scheme of partition of the Punjab to satisfy the Sikhs.

## OUTLOOK ON PROBLEM OF MINORITIES.

11. In fact the whole question of minorities is being looked at from a most unnatural point of view under the plausible excuse of protection for minorities. As Edmund Burke has said :—

“Parliament is not a congress of Ambassadors from different and hostile interests, which interests each must maintain as an agent and advocate against other agents and advocates, but Parliament is a deliberative Assembly of one nation with one interest, that of the whole people; where not local purposes, not local prejudices ought to guide, but the general good resulting from the general reason of the whole.”

16th November, 1931.

## APPENDIX VII.

### **\*SUPPLEMENTARY MEMORANDUM ON THE CLAIMS OF THE DEPRESSED CLASSES FOR SPECIAL REPRESENTATION.**

*By Dr. Bhimrao R. Ambedkar and Rao Bahadur R. Srinivasan.*

In the memorandum that was submitted by us last year dealing with the question of political safeguards for the protection of the Depressed Classes in the constitution for a self-governing India, and which forms Appendix III to the printed volume of Proceedings of the Minorities sub-Committee, we had demanded that special representation of the Depressed Classes must form one of such safeguards. But we did not then define the details of the special representation we claimed as being necessary for them. The reason was that the proceedings of the Minorities sub-Committee came to an end before the question was reached. We now propose to make good the omission by this supplementary memorandum so that the Minorities sub-Committee, if it comes to consider the question this year, should have the requisite details before it.

### **I. EXTENT OF SPECIAL REPRESENTATION.**

#### *A. Special Representation in Provincial Legislatures.*

(i) In Bengal, Central Provinces, Assam, Bihar and Orissa, Punjab and the United Provinces, the Depressed Classes shall have representation in proportion to their population as estimated by the Simon Commission and the Indian Central Committee.

(ii) In Madras the Depressed Classes shall have twenty-two per cent. representation.

(iii) In Bombay :—

(a) In the event of Sind continuing to be a part of the Bombay Presidency the Depressed Classes shall have sixteen per cent. representation.

(b) In the event of Sind being separated from the Bombay Presidency the Depressed Classes shall enjoy the same degree of representation as the Presidency Muslims, both being equal in population.

\* For previous memorandum see Appendix III to Proceedings of the Minorities sub-Committee of the First Session of the Conference.

*B. Special Representation in the Federal Legislature.*

In both Houses of the Federal Legislature the Depressed Classes shall have representation in proportion of their *population in India*.

*Reservations.*

We have fixed this proportion of representation in the Legislatures on the following assumptions :—

(1) We have assumed that the figures for the population of the Depressed Classes given by the Simon Commission (Vol. I, p. 40) and the Indian Central Committee (Report, p. 44) will be acceptable as sufficiently correct to form a basis for distributing seats.

(2) We have assumed that the Federal Legislature will comprise the whole of India, in which case the population of the Depressed Classes in Indian States, in Centrally Administered Areas, and in Excluded Territories, besides their population in Governor's Provinces, will form very properly an additional item in calculating the extent of representation of the Depressed Classes in the Federal Legislature.

(3) We have assumed that the administrative area of the Provinces of British India will continue to be what they are at present.

But if these assumptions regarding figures of population are challenged, as some interested parties threaten to do, and if under a new census over which the Depressed Classes can have no control the population of the Depressed Classes shows a lower proportion, or if the administrative areas of the Provinces are altered, resulting in disturbing the existing balance of population, the Depressed Classes reserve their right to revise their proportion of representation and even to claim weightage. In the same way, if the all-India Federation does not come into being, they will be willing to submit to readjustment in their proportion of representation calculated on that basis in the Federal Legislature.

## II.—METHOD OF REPRESENTATION.

1. The Depressed Classes shall have the right to elect their representatives to the Provincial and Central Legislature through separate electorates of their voters.

For their representation in the Upper House of the Federal or Central Legislature, if it is decided to have indirect election by members of the Provincial Legislatures, the Depressed Classes will agree to abandon their right to separate electorates so far as their representation to the Upper House is concerned subject to this : that in any system of proportional representation arrangement shall be made to guarantee to them their quota of seats.

2. Separate electorates for the Depressed Classes shall not be liable to be replaced by a system of joint electorates and reserved seats, except when the following conditions are fulfilled :—

(a) A referendum of the voters held at the demand of a majority of their representatives in the Legislatures concerned and resulting in an absolute majority of the members of the Depressed Classes having the franchise.

(b) No such referendum shall be resorted to until after twenty years and until universal adult suffrage has been established.

### III.—NECESSITY OF DEFINING THE DEPRESSED CLASSES.

The representation of the Depressed Classes has been grossly abused in the past inasmuch as persons other than the Depressed Classes were nominated to represent them in the Provincial Legislatures, and cases are not wanting in which persons not belonging to the Depressed Classes got themselves nominated as representative of the Depressed Classes. This abuse was due to the fact that while the Governor was given the power to nominate persons to represent the Depressed Classes, he was not required to confine his nomination to persons belonging to the Depressed Classes. Since nomination is to be substituted by election under the new constitution, there will be no room for this abuse. But in order to leave no loophole for defeating the purpose of their special representation we claim—

(i) That the Depressed Classes shall not only have the right to their own separate electorates, but they shall also have the right to be represented by their own men.

(ii) That in each Province the Depressed Classes shall be strictly defined as meaning persons belonging to communities which are subjected to the system of untouchability of the sort prevalent therein and which are enumerated by name in a schedule prepared for electoral purposes.

### IV.—NOMENCLATURE.

In dealing with this part of the question we would like to point out that the existing nomenclature of Depressed Classes is objected to by members of the Depressed Classes who have given thought to it and also by outsiders who take interest in them. It is degrading and contemptuous, and advantage may be taken of this occasion for drafting the new constitution to alter for official purposes the existing nomenclature. We think that they should be called "Non-caste Hindus," "Protestant Hindus," or "Nonconformist Hindus," or some such designation, instead of "Depressed Classes." We have no authority to press for any particular nomenclature. We can only suggest them, and we believe that if properly explained the Depressed Classes will not hesitate to accept the one most suitable for them.

We have received a large number of telegrams from the Depressed Classes all over India supporting the demands contained in this Memorandum.

*November 4th, 1931.*

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### APPENDIX VIII.

#### **MEMORANDUM ON THE CLAIMS OF INDIAN CHRISTIANS.**

*By Rao Bahadur A. T. Pannir Selvam.*

Some of the statements made by the Congress representative and the attitude of the Indian National Congress towards the vital needs of the minority interests make it imperative that I should re-state my case on behalf of the Indian Christians.

Mr. Gandhi was reported to have said in last March as follows: "If instead of confining themselves to purely humanitarian work and material service to the poor, they (the foreign missionaries) limit their activities as they do at present, to proselytising by means of medical aid, education, etc., then I would certainly ask them to withdraw. Every nation's religion is as good as any other. Certainly India's religions are adequate for her own people. We need no converting spiritually." This provoked criticisms and aroused fears and suspicions all round.

Replying to "correspondents angry or curious," Mr. Gandhi characterised, in his *Young India* of April 23rd, the report as a travesty of his views, and explained: "If instead of confining themselves to purely humanitarian work such as education, medical services to the poor, and the like, they would use these activities of theirs for the purpose of proselytising, *I would certainly like them to withdraw*. Every nation considers its own faith to be as good as that of any other. Certainly India's religions are adequate for her people. India stands in no need of conversion from one faith to another . . ."

The rejoinder did not, however, improve the position.

Now, Mr. Gandhi undeniably occupies the unique position of leader, even dictator, of the strongest organised political body in India, which presumably is destined to be the ruling power in the event of *Swaraj*. One might, therefore, justifiably assume Mr. Gandhi's statement to be indicative of the policy of the future governing class towards all proselytising faiths. The Christian community has been selected for the first warning, probably because of their comparative numerical helplessness. Naturally enough, Mr. Gandhi's words have been received with a stir of genuine apprehension by the great majority of Indian Christians. Subsequently he had "no doubt that in India under *Swaraj* foreign missionaries will be at liberty to do this proselytising 'in the wrong way'".

Further, the Congress resolution on the question of fundamental rights was studiously silent on the question of proselytising or preaching religion, although Mr. George Joseph, one time lieutenant of Mr. Gandhi, had specially written on the subject to the Convener of the Subjects' Committee and had a reply to the effect that there would be no difficulty.

If the fears and anxieties of a minority community, such as mine, as to their right of freedom of conscience under a *Swaraj* Government, are to be allayed, I feel that there should be some statutory provision such as the following in the future constitution of the country:—

"1. Every person of whatever race, caste, creed, or sex shall have the right to freely and openly profess, practice, and preach his religion, subject to public order and morality. He shall also have the right to convert by peaceful, legitimate, and constitutional methods, others to his faith.

2. No person shall, merely by reason of his change of faith, lose any of his civil rights or privileges or be subject to any penalty.

3. Persons belonging to any religion shall have a right to establish, manage, and control, at their own expense, charitable, religious, and social institutions, schools, and other educational establishments, with the right to exercise their religion therein; and where specific sums of money from public funds, as set out in the State Budget or in the Budget of local or other public authorities, are to be devoted to education, religion, or philanthropy, a due share in the use and enjoyment of such sums shall be secured to these institutions as well."

Again, the attitude of the Congress spokesman to the representation of minorities in the legislative bodies has been peculiarly curious. If he had ruled out definitely all special representations, his position would have been intelligible. Having agreed to special representation of the Hindus, the Sikhs and the Muslims, how could the same privilege, in fairness, be denied to the other communities? Mr. Gandhi's "historical grounds" are hardly historical! Students of real history know that Christianity in India is at least centuries older than the Mussulman invasion of the country; and was flourishing in the land before the origins of Sikhism. Christians have played a very prominent part in the building up of the public weal, and are therefore entitled to the same consideration as the sister communities. Mr. Gandhi's "historical grounds," it would appear, have reference to the

Lucknow and other Congress resolutions. The Christians as a community have never been a party to any of the pacts or resolutions of the Congress, and they should therefore not be denied with impunity their rights for adequate separate representation in the future Legislatures of their country.

The Christians are, after all, the third largest religious community in India, numerically much superior to the Sikhs. The social and economic condition of the Christians, and the fact that they are scattered about the country, make it essential that their representation should be through a separate electorate of their own. Reservation of seats in a joint electorate is impracticable in their case, and would hardly safeguard or serve their interests.

I claim, therefore, on behalf of the Indian Christian community, that, in addition to the elemental right to profess, practice, and act up to the teachings of their religion, they should be given the right of representation through a separate electorate in the various legislative bodies of the new constitution, and that they should be given such other privileges and rights as may be conceded to the other minority communities in India.

October 20th, 1931.

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#### APPENDIX IX.

### FUNDAMENTAL RIGHTS TO BE INCORPORATED IN THE NEW CONSTITUTION FOR INDIA FOR THE ANGLO-INDIAN AND DOMICILED EUROPEAN COMMUNITY.

*Memorandum by Sir Henry Gidney.*

To give effect to the resolution passed in the Services sub-Committee. Clause 5 (4) of which reads :—

“The sub-Committee recognise the special position of the Anglo-Indian community in respect of public employment and recommend that special consideration should be given to their claims for employment in the Services,” the Anglo-Indian community demands the inclusion of the following clauses in the Fundamental Rights.

(1) *Political rights as a community* with adequate representation in both Federal and Provincial Legislatures in proportion to their part in the life of the country and the right of electing their own representatives.

(2) *Employment in Services.*—It shall receive special employment on a living wage, based on their standard of living, in the Executive and Ministerial Services in every administrative department of the State.

(b) That the same number of Anglo-Indians and domiciled Europeans per centum of the total number of persons employed in such Services as are employed on the date on which the new constitution comes into force shall continue for 30 years after the operation of the new constitution ; subject only to the condition that a sufficient number of Anglo-Indians possessing the requisite qualifications is available.

(3) *Education.*—(a) Subject to the powers and control of the Executive Minister it shall be given the right to administer and control its own educational institution, *i.e.*, European education, and, if it so desires, it shall

be permitted to levy an educational cess from its own members for the support of its education.

(c) European education shall be specially protected by

(1) the retention of the present grants-in-aid and the generous grant of an adequate number of scholarships;

(2) the creation of an Education Trust Fund, the equivalent of the present total annual expenditure on European education, to which shall be added the funds of the Uncovenanted Service Family Pension Fund and of any other similar Funds created and maintained by members of the community for the moral, educational, or material benefit of Anglo-Indians whether already closed, or about to be closed, owing to the demise of the beneficiaries thereunder or for any reason whatever. The income accruing to the said Trust shall be utilised for the purpose of granting educational scholarships to the members of the community.

(4) *Jury rights*.—All racial discrimination shall be eliminated in jury trials and Anglo-Indians shall be given equal jury rights with other communities in India, by

(a) the demand of "by legitimate descent" now made of the Anglo-Indian alone being deleted from the provisions of the Criminal Procedure Code, Sec. 4, Clause (1), Sub-Clause (ii);

(b) the accused, whoever he be, being given the right of claiming trial by either a European or an Indian jury and the words "or European as he may desire" being added to Section 275, Clause (i), and Section 284 (a), Clause (i).

#### DECLARATION OF RIGHTS SUBMITTED BY COL. GIDNEY FOR ALL MINORITY COMMUNITIES TO BE INCORPORATED IN THE NEW CONSTITUTION FOR INDIA ON 19TH JANUARY, 1931.

1. *Definition*.—A community shall be classified as a minority community if it shall be notified as such in the Gazette of India.

2. *Fundamental Right*.—All subjects of the State in India are equal before the law and possess equal civic rights (U.S.A. Constitution Amendment XIV and Government of Ireland Act, 1920, 10 and 11, Geo. V., Ch. 67, sec. 5 (2)). Any existing enactment, regulation, order, custom or interpretation of law by which any penalty or disability is imposed upon or any discrimination is made against any subject of the State shall, as from the day on which this constitution comes into operation, cease to have any effect in India.

3. *Representation on Legislatures*.—Adequate representation on the Federal and Provincial Legislatures.

4. *Separate Electorates*.—All minority communities who so desire shall be given separate electorates which shall be retained till 75 per cent. of a community consent to forego the right, and desire otherwise.

5. *Public Service Commission*.—(a) In addition to the Public Service Commission already functioning under the Government of India, there shall be created a Public Service Commission in each Province charged with the duty of recruiting for the Public Services.

(b) Minority communities shall be collectively represented by not less than one of its members on each Provincial Commission and on the Commission already functioning under the Government of India. These representatives shall be nominated by the Governor-General or the Governor as the case may be.



(c) It shall be the duty of the Public Service Commission, subject to the test of efficiency as may be prescribed—

(1) To recruit for the Services in such a manner as shall secure due and adequate representation of all communities, and

(2) to regulate from time to time priority in employment in accordance with the existing extent of representation of the various communities in any particular service.

6. *Representation in Cabinets.*—(1) In the Federal Cabinet, one Minister and two Parliamentary Under-Secretaries shall be chosen from and be collectively representative of the minority communities.

(2) In each Provincial Cabinet one Minister and one Parliamentary Under-Secretary shall be chosen from and be collectively representative of the minority community.

(3) Such Ministers shall be nominated by the Governor-General or the Governor as the case may be and given a special portfolio with a special Statutory Department for the protection of minority interests.

*N.B.*—If No. 6 cannot be statutorily enacted it should be incorporated in the Instrument of Instructions to the Governor-General and Governors as a specific mandate to them, with powers to act in such matters independently of the views of their Ministry.

7. *Appeal.*—Should the Federal Government or any Provincial Governments fail to comply in any or all of the foregoing provisions an appeal shall lie in the case of an order of the Federal Government to the Secretary of State for India or any other higher tribunal, and in the case of the Provincial Government to the Federal Government in the first place, and from the order of the Federal Government to the Secretary of State for India or any other higher tribunal.

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## APPENDIX X.

### THE MARATHAS AND ALLIED COMMUNITIES.

*Memorandum by Mr. B. V. Jadhav.*

When the Montagu-Chelmsford Reforms were under consideration the non-Brahmins of Madras and the Marathas of Bombay started an agitation to protect their interests from the dominant influence of the advanced communities. In the Government of India Act of 1919 their claims were recognised and some seats were reserved for them in multiple seat constituencies.

The non-Brahmin movement in Madras is co-extensive with the boundaries of that Province, and in all the four elections they have been able to secure more seats than were reserved to them, and hardly any occasion may have arisen when the concession of reserved seats came into operation. Nobody in Madras is therefore keen on preserving the right of reserved seats.

In the Bombay Presidency the conditions are different. There is, of course, the non-Brahmin movement there also, but it is confined to the Marathas and lingayets of the districts in which the Marathi and Canarese languages are spoken. In Sind and Gujerat the social conditions are vastly different, and there no Hindu community except the Depressed Classes asks for special protection. The Marathas and the allied communities, who have so far enjoyed protection under the reservation clause, are desirous that the concession should be continued for a further period.

It is to be noted that the Government of Bombay are of opinion that the concession is no longer necessary. This was probably due to the absence in the Government of anybody who knew the real condition of the people.

I urged that the concession should be continued.

Four elections were held since the passing of the Government of India Act in 1919. The first election of 1920 and the fourth of 1930 cannot be considered to be normal as the Congress in those years refused to take any part in them. In those years the elections were uncontested in many constituencies, and therefore the success of the Maratha candidates does not show that normally they are able to look after their own interests and do not require any protection. But the elections of 1923 and 1926 were hotly contested. The results of both these elections prove that in the City of Bombay no Maratha candidate would succeed if the right of a reserved seat was taken away. The same is proved by the fate of Maratha candidates in the Ahmednagar and Ratnagiri districts in 1926. Out of the six reserved seats, in three the right of reservation was claimed. The seventh reserved seat is not fixed, but is taken in turn by the districts of Sholapur, Kolaba and West Khandesh. In 1923 this seat was reserved in the Kolaba District but in the Sholapur and West Khandesh districts it was open to all communities without reservation. In this year no Maratha candidate was elected either in Sholapur or West Khandesh.

Similarly, in the following election the seat was reserved in West Khandesh but left open to all communities in Kolaba, and there again the Maratha candidate failed. This will show that the Maratha and allied communities have not yet become sufficiently organised and therefore require protection for a further period.

The principle of reservation works as a safety valve. In ordinary circumstances it does not operate at all but automatically comes into operation only when an emergency arises. It is therefore not necessary to take away the right of reservation. When no longer necessary it will remain unused.

I therefore submit that the right of reserved seats should be continued as under the present Act.

*November 13th, 1931.*

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## APPENDIX XI.

### LABOUR UNDER THE NEW CONSTITUTION.

*Circulated by Mr. N. M. Joshi, Mr. B. Shiva Rao and Mr. V. V. Giri.*

I am making this statement on the subject of Labour in the new constitution with the consent and approval of my two colleagues.

First, let me say a word as to the number of those who would come under the category of Labour. Precision is not possible in this matter, as the details of the Census Report of 1931 are not yet fully available. We include in the category of Labour all those who are wage-earners, whether in fields, plantations or factories. A memorandum was prepared in the India Office in 1921 and submitted to the Council of the League of Nations to urge the inclusion of India among the leading industrial states of the world. According to the figures mentioned in that memorandum, there were 27·8 million agricultural workers employed as farm servants and field labourers in India in 1911. This figure includes workers in the tea, coffee, rubber and indigo plantations, but does not include the much larger class of small holders and tenants who numbered at that time over 40 million. The estimate of workers in industries, mining and transport is given as approximately 20·2 million. The total number of workers in India would, therefore, be 48 million.

This was in 1911. During the last 20 years there has been an increase in general population by about 10 per cent. Cultivation has been extended and industries have been developed on a considerable scale. Our estimate of the total number of workers at the present moment is, therefore, between 55 and 60 million. Of these, an appreciable number is drawn from the Depressed Classes, whose representatives have put forward their special needs and claims, but what exact proportion they form is difficult to say without a proper enquiry. Nevertheless, it is safe to estimate that the rest of Labour, excluding for the moment those belonging to the Depressed Classes, would be about 35 million, or 10 per cent. of India's present population.

(1) *A Declaration of Rights*.—At a meeting of the Minorities sub-Committee last year, Mr. Shiva Rao read out the Declaration of Rights which, in our opinion, should be inserted in the constitution. It may be enlarged to suit the requirements of other minorities, but so far as Labour is concerned, these points should find mention :—

“ Recognising that the well-being, physical, moral and intellectual, of the workers of India is of supreme importance in assuring the peace, progress and prosperity of the country, and recalling the solemn obligations of India as a Member of the League of Nations, and of the International Labour Organisation, to endeavour to secure and maintain fair and humane conditions of labour for men, women and children, and to collaborate in the international establishment of social justice, the Commonwealth declares the following principles to be accepted as fundamental principles of the constitution, and as regulating the exercise of the legislative, executive and judicial powers within the Commonwealth :—

(1) It is the duty of every citizen so to use his mental and bodily powers as to contribute to the welfare of the community, and correspondingly it is the duty of the community to secure, so far as lies in its power, that every citizen shall be given the training and opportunities necessary to enable him to maintain by his work a decent standard of living ;

(2) The Indian Parliament shall make suitable laws for the maintenance of health and fitness of work of all citizens, the securing of a living wage for every worker, and provision against the economic consequences of old age, infirmity and unemployment ;

(3) The protection of motherhood and the rearing of the rising generation to physical, mental and social efficiency are of special concern to the Commonwealth. Women, young persons and children shall, therefore, be protected against moral, spiritual or bodily injury or neglect and against exploitation and excessive or unsuitable employment.

(4) The welfare of those who labour shall be under the special protection of the Commonwealth and the conditions of Labour shall be regulated, from time to time as may be necessary, with a view to their progressive improvement ;

(5) The right of workers to express their opinions freely by speech, writing or other means, and to meet in peaceful assembly and to form associations for the consideration and furtherance of their interests, shall be granted by the Commonwealth. Laws regulating the exercises of this right shall not discriminate against any individual or class of citizens on the grounds of religious faith, political opinion or social position ;

(6) No breach of contract of service or abetment thereof shall be made a criminal offence ;

(7) The Commonwealth shall co-operate with other nations in action to secure the realisation of the principle of social justice throughout the world ;

(8) All citizens in the Commonwealth have the right to free elementary education without any distinction of caste or creed in the matter of admission into any educational institutions maintained or aided by the State and such right shall be enforceable as soon as due arrangements shall have been made by competent authority ;

(9) All citizens are equal before the law and possess equal civic rights ;

(10) All citizens have an equal right of access to and the use of public roads, public wells and all other places of public resort."

(2) *Labour Legislation, a Federal Subject with concurrent powers to the Provincial Legislatures.*—Out next point is that labour legislation should be a federal subject, with power for the Provincial or State Legislatures also to legislate but not, as the Royal Commission on Labour observed in its Report issued a few months ago, "so as to impair or infringe the authority" of the Federal Legislature.

(3) *The Ratification of International Labour Conventions to be a concern of the Federal Government.*—We desire that the power to ratify International Labour Conventions should be vested in the Federal Government.

It is not necessary to elaborate either of these points, as they fall really within the scope of the discussions of the Federal Structure Committee, and I still hope I shall have an opportunity of raising them.

(4) *The Introduction of Adult Suffrage.*—For a similar reason I shall not do more than mention the point that the introduction of adult suffrage is vital from the workers' point of view. We found ourselves in a minority in advocating it in the Franchise sub-Committee last year ; but we are glad to see that Mr. Gandhi and the Congress are also in favour of it, and we hope that with his powerful assistance we shall secure adult suffrage.

We shall have no objection, if on detailed enquiry, it be found that universal adult suffrage would be impracticable as the next stage, to some qualification being made, such as raising the age limit to 25 years, provided that the restriction applies equally to all classes. But we do ask for immediate recognition of the principle of adult suffrage in the terms of reference of the Expert Franchise Committee that is hereafter to be appointed.

(5) *Joint Electorates.*—We are opposed to the continuance of separate electorates for communities divided according to religion or race. Our experience of the Indian Trade Union movement strengthens our conviction in the efficacy and soundness of not dividing the community on a religious or racial basis. Communal and racial feelings have had comparatively little influence on the movement and the workers are organised as an economic class, not as Hindus, Muslims or Untouchables. Our grave fear is that communal electorates, with the introduction of adult suffrage, will create a false division among the workers and break the solidarity of the working-class movement. If the workers are divided not on the basis of an economic class, but of religion or race into Hindus and Muslims and Christians, etc., their proportion of votes in every constituency will be considerably less than if they are allowed to vote together as an economic class, and they are bound to lose the effect and influence they would possess. The vast majority of the workers are illiterate and heavily in debt. Only a small number of the industrial workers is as yet organised, and so far as those engaged in agriculture and on the plantations are concerned, they have been practically untouched by the working-class movement. Under these circumstances it would be an intolerable handicap on the workers to force on them a system of electorates based on religion or race, the demand for which proceeds, not from them, but only from a small section of the educated classes. Moreover, this wrong division will throw a powerful barrier in the way of the development of the

movement and prevent the organisation of political forces on an economic basis. The communal problem we hold is a problem of the past. The real problems of the future will be economic and social and it would be wrong to build the constitution in a manner which has no relation to the realities of tomorrow.

We would prefer a division of the electorates on an occupational rather than a communal or a territorial basis, in order to bring into the Legislatures elements which, because of their lack of organisation and influence, might fail to secure adequate representation. But the least we can do now is to oppose the extension of the principle of electorates based on religion or race to the workers as being detrimental to their interests.

Our position is that if adult suffrage is introduced on a basis of joint electorates, and no other special interests are recognised, Labour will not ask for a reservation of seats or the creation of special constituencies. But in the event of even one of these conditions failing to be fulfilled, Labour must have both.

So far as the total number of Labour seats is concerned, we ask for no weightage. But representation of Labour can and must be on the population basis; that is, ten per cent. in the Federal Legislature, and if the decision ultimately be in favour of a bicameral system, then in each House of the Legislature. With regard to the Provincial Legislatures also, the numbers will have to be ascertained in each Province, and the seats allotted in their proportion to the total population of the area.

I cannot do better than quote the following passage from the Report of the Royal Commission on Labour with which we entirely agree :—

The Whitley Commission's Report observes (p. 462)—

"There are several directions in which the adequate representation of Labour should benefit both itself and the community. In the first place, the presence of representatives able to voice the desires and aspirations of Labour and to translate these into concerted proposals is essential for the proper consideration of measures specially affecting Labour. But the welfare of Labour does not depend purely on what may be called labour measures; its good depends on the whole trend of policy and legislation. More adequate representation of Labour is necessary for its protection in this respect, and, if given the opportunity, organised Labour can make a valuable contribution to the wise government of the Commonwealth. Further, the proper representation of Labour is itself educative; the recognition of its claims as a part of the body politic will bring increased responsibility and a sense of unity with the community as a whole. Conversely, exclusion of Labour from a fair share in the councils of the nation will inevitably drive it to rely unduly on other means of making itself felt with injury to itself and to the nation. What we have stated is applicable to labour generally, both agricultural and industrial, and those who have to deal with the representation of labour in detail will no doubt have regard to the whole field."

The Commission has also recommended, it is to be noted, that the principle of election should be substituted for that of nomination, and registered trade Unions should form special constituencies for the purposes of election. We accept these suggestions and trust that they will commend themselves to the Conference.

As regards agricultural and plantation labour, some other method of election will have to be devised, as there are no trade Unions among the workers of these two classes. But we do not think it will be impossible for the Expert Franchise Committee to make concrete suggestions on the point. The question is worth considering whether *Kisan Sabhas*, or organisations

of agricultural workers, wherever they exist, may not be registered under a law analogous to the Trade Union Act and regarded as a special electorate. At all events, we ask the Conference to endorse, without qualification, the principle that these millions of workers are entitled to an adequate share in the government of their country.

*November 13th, 1931.*

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## APPENDIX XII.

### MEMORANDUM FOR THE MINORITIES COMMITTEE.

*By Sir Chimanlal Setalvad.*

It is a thousand pities that the communal difficulties have not yet been solved by agreement of the parties concerned. It is essential for the smooth working of any self-government constitution for India that this matter should be settled by mutual goodwill and understanding and that a feeling of perfect security must be created in the minds of the minorities. But I am afraid that the present deadlock in the solution of the communal problem is being very much exaggerated and is being exploited in certain quarters for retarding the full constitutional advance which India demands.

A critical examination of the points of difference reveals that there is considerably more agreement than disagreement, and the controversial points are narrowed down to small proportions.

It is made to appear as if the Delegates belonging to the minority communities and the Delegates belonging to the majority communities are disagreed on almost every point. The fact is quite the contrary. There is really no difference of opinion on the question that proper safeguards must be provided for ensuring full religious liberty and protection of culture and personal laws of the minorities and that provision should be made against legislation affecting their religion, etc. Further, it is generally agreed that the minorities must be secured a proper share in the Services and, as far as practicable, in the Executive Government. In fact, formulas for these purposes were actually drafted and assented to by the representatives of the various communities last year and hardly anybody wants to go back upon them. The Services sub-Committee of the Conference last year in its Report recommended the text of the provisions to be made for securing to the minorities their proper share in the Services, etc.

As regards certain special demands of the Muslims, *e.g.*, the separation of Sindh and the status and constitution of the North-West Frontier Provinces, agreement was also reached to the satisfaction of the Muslims. As regards the Muslim claim for one-third representation in the Federal Legislature, there has been a general desire to agree to the same, and the question is merely one of method for securing the desired representation. Last year a formula was agreed to that the Muslims were to have one-third of the total number of elected members of British India and also one-third of any nominations of persons other than officials or members of any very small minority. The question of securing to the Muslims further seats so as to make up one-third of the total number of members was left for consideration in connection with the representation of the States. It should not be difficult to secure this by some convention with the States.

As regards the Muslim claim to be allowed the existing weightage in Provinces where they are in a minority there is not any appreciable opposition.

It will thus be seen that on all matters which are really vital and essential there is the largest measure of general agreement.

The disagreement extends to only two matters :—

1. Whether the Muslim and other minorities' representation is to be secured by means of separate electorates or by reservation of seats for them in joint electorates.

2. The allocation of seats in the local Legislatures of the Punjab and Bengal.

As regards the first question—namely, separate versus joint electorates—the question has been discussed threadbare both here and in India. It is obvious that in Provinces where the Muslims are in a minority their coming into the joint electorates is more in their interests and for their protection. Once effective safeguards are provided, as stated above, in the matter of religion, culture, personal laws, social practices, education, fair share in the public services, adequate representation in the Legislature, there is no clash or divergence of interest between the different communities, and it is really safer for the minorities to come into the joint electorates. For, unless the Muslim voters have a voice in the election of the majority community members, the former would have no hold on the latter. This has been recognised by important Muslim leaders such as H.H. The Aga Khan, Mr. Jinnah, and others, and if they are given reservation of seats they will be quite secure. But, whatever the real merits of this question may be, it is perfectly obvious that the Muslims cannot be forced against their wishes to come into the joint electorates.

If they want still to stick to separate electorates they must be allowed to have them. Keeping different communities in separate watertight compartments must inevitably prove a great obstacle in the evolution of national unity and national self-government. and will render very difficult in practice the joint responsibility of the Cabinet. It is therefore urged that separate electorates should not be extended farther than where they exist, and the other minorities should be secured their proper representation by reservation in joint electorates. What is hoped is that the Muslims and the Sikhs, after some experience of the new constitution of self-government for India, will see the advantage to themselves and the country of coming into joint electorates. It should therefore be provided that if at any time at least two-thirds of the Muslims' representatives in any Legislature decide in favour of joint electorates, thereafter joint electorates should be established for that Legislature. It is not therefore right to create at this juncture further separate compartments.

As regards the Depressed Classes, my sympathies and those of all right-thinking men are wholly with them. The treatment that they have received in the past and are suffering under even now reflects great discredit on the class Hindus who are responsible for the same ; but it will not be patriotic for the Depressed Classes, because of their exasperation, to insist upon separate electorates. They should certainly be made secure by reservation of seats. The percentage of representation to be given to them must depend on various considerations—*e.g.*, the number of people available for the task—and not merely on the thumb rule of numerical proportion. At present in the Central Legislature they have only one seat, and that also by nomination. This is certainly wholly inadequate and unjust, and they should be given immediately a much larger number, to be progressively increased and brought up ultimately to their numerical proportion as by education and other means men fitted for this work become available.

The real and substantial points of disagreement are thus reduced only to the allocation of representation in the local Legislatures of the Punjab and Bengal. The discussions last year as well as this year show that Muslims may be satisfied if they are secured 51 per cent. representation in the Punjab and Bengal, which is less than their numerical proportion on population basis. The Hindus and Sikhs in the Punjab, and in Bengal the Hindus and

Europeans (the latter community at present enjoys representation very much in excess of its numbers), must arrive at some adjustment. A question of a couple of seats here or there must not bar a settlement. If, however, communities concerned in these two Provinces are unable to reach agreement, surely their inability to arrive at an adjustment cannot be allowed to stand in the way of the country as a whole attaining self-government, when, as I have shown above, there is practically general agreement as regards all essential safeguards for minorities and there is no difficulty of allocation of representation in the Legislatures of all other Provinces. This particular and narrow issue should be left for decision by the Prime Minister and His Majesty's Government. There is no reason why the Muslims, Hindus, Sikhs, Depressed Classes and Europeans should not, without any hesitation, agree to abide by the decision of the Prime Minister. The Congress claims to be a non-communal body and to have a purely national outlook, and therefore it and its representative can have no objection to accepting any settlement which the communities concerned may arrive at by this method of decision by the Prime Minister. One tentative and rough-and-ready solution for allocation of seats in the Punjab and Bengal is to accept the Government of India's proposals about it with such variation as may be required in view of the latest census figures.

There is one aspect of joint and separate electorates which I earnestly wish to be considered. I believe there are among the Muslims an appreciable number who prefer joint electorates. There is no reason why those preferring to be in the joint electorates should be denied their liberty of thought and action because the majority of their community wish to have separate electorates. It should be made permissible for members of any community for whom separate electorates are provided to declare their desire to go into joint electorates and be allowed to do so. On such declaration they should be included in the joint register and should be allowed to vote and stand for election in the joint electorate ; but such declaration, when made, must ever afterwards be final.

Such a provision will demonstrate the strength of the opinion of those who believe in joint electorates, and will also afford an avenue for ultimately absorbing everybody into joint electorates as the strength of opinion in favour of joint electorates progressively grows.

For the views put forward and the suggestions made by me I beg my brother Delegates' unprejudiced consideration. They are capable of further adjustment wherever necessary, and I implore all to put their heads together for a solution. I have no communal bias and I belong to no communal organisation.

*November 9th, 1931.*

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## APPENDIX XIII.

### REPRESENTATION OF WOMEN IN THE INDIAN LEGISLATURE.

*Memorandum by Mrs. Subbarayan.*

The framing of a new constitution for India offers an opportunity for considering fully the question of the representation of women on the Indian Legislatures of the future. It is obviously desirable that the ordinary channels of election should be open to women ; but the question arises as to whether there is any likelihood of their securing election through the ordinary poll. Even in Western countries, where it has long been the custom for women to take part in public affairs, very few of them even now secure election to the Legislatures. In India they have only recently begun to emerge into public life, and, moreover, they are in a peculiar position owing to the social disabilities to which they have long been subject. Consequently there is



bound to be strong prejudice on the part of both men and women against their coming into the Councils. There are also almost insurmountable practical difficulties to their candidature, such as that few women have sufficient means to stand, that—in our vast electoral areas—it would be extremely difficult for them to tour, to get into touch with voters, etc. It seems obvious that, for a considerable time, until the public becomes sufficiently educated, it is extremely unlikely that women will be returned in India through the ordinary poll. And yet, especially during the first vital and formative years of the new constitution, when the foundations of our social and educational policy (which affect women so closely) and indeed of our policy in all matters, are laid, it will be most important to have women on the Legislatures. They should be there in particular to impress on the Legislatures the necessity for social legislation, which is so urgently required. But besides that contribution to public life, their presence on the Legislatures should be a means of educating the public and of cultivating in women a due sense of responsibility and administration. Mahatma Gandhi, whose knowledge of political conditions in India is unsurpassed, during his speech at the Federal Structure Committee on September 17th, visualised the possibility of women not being elected to the Legislatures, and indicated his belief that some arrangement should be made to meet this eventuality. If some special provision for securing their presence is not made, it is possible—indeed likely—that their claims will recede further and further into the background. It will have a great effect if, from the start, it is shown in practice as well as in theory, that the co-operation of women on the Legislatures is normal and desirable.

There is considerable support in India for the view that some special provision is necessary. I have received large numbers of letters from women doing important social and educational work in many parts of India, asking me not to fail to press this view on the Conference, otherwise I should have been slow to put it forward. Delegates have no doubt also received a Memorandum opposing it from three women's organisations in India—organisations whose views I sought last year, but was not fortunate enough to secure. Their opposition is apparently based on the belief that, if equality of civic rights is granted to women in India, equality of opportunity in civic service will automatically follow, and that, owing to the part played by women in the recent political struggle, women now realise their strength and do not require special provision. These theories seem to me to be far removed from the realities of the situation. These three women's organisations are associations of importance, but I cannot admit that they speak for the entire womanhood of India. While welcoming the fact that the political struggle has brought many thousands of women out into public life, I feel it essential to acquire a true perspective of the whole picture, and to realise that there remain over a hundred and twenty million women and girls in India, who are still in a state of civic inertia, and who have not yet attained self-confidence or political consciousness. It is for the sake of this overwhelming majority of women that I believe special provision to be necessary. I am convinced that one practical step forward, which will ensure the presence of women on the Legislatures, working side by side with men as a normal feature of our political life, will do more for them than any theories of equality.

The opposition to special provision for women in this Memorandum is also based on the assumption that Adult Suffrage will come into existence. Even if Adult Suffrage is secured, I think the above arguments hold good. If, however, Adult Suffrage is not achieved, or only gradually achieved, then special provision will be all the more necessary.

I have given much anxious thought to the form which such special provision should take. Nomination is obviously unsuitable. The ordinary reservation of seats, involving separate electorates, appropriation of a share of existing seats, and a permanent claim to them, is equally undesirable. The solution

which the Women's Delegation advanced last year (*see* Minorities sub-Committee proceedings, page 80)—namely, that the Legislatures themselves, after their own election, should for a temporary period elect a fixed proportion of women to the Legislatures—still seems to me the most suitable. The suggestion then also made—that the proportion of women to be elected should be five per cent. of the elected Legislature, that the temporary period should be for three elections, and that the election of women should be made by proportional representation so as to avoid the complications of the communal question, also seem to me still to be the best fitted to the circumstances. I would, however, now—in order to meet the divergence of views among Indian women on this matter—make a further suggestion, namely, that such a scheme might be *optional* on all Legislatures, Central or Provincial, to adopt or not as they think fit.

It may well be that some other proposal better than the above outlined scheme—one that would attain the same end—may be devised, and in that case I would willingly accept it. In this matter, I regard myself as a member of no party, community or class, but simply as voicing the views of an educated and intelligent section of women's opinion in India, which believes special provision for women to be in the best interests of women in general and in those of the nation at large (which must inevitably be closely identified with women's interests). It does not seem to us that it is in the least derogatory to ask for such special provision to meet existing facts; nor can it be considered either a privilege or a favour. Indeed, membership of a Legislature, in our opinion, is a heavy responsibility and a duty rather than a privilege or a favour. If we are told that there is no analogy for such a proposal in the constitutions of other countries, I would urge that in this matter we should not be entirely guided by outside precedents. Indeed, the experience of women in other countries suggests that Indian women will be wise in taking steps to strengthen their political status from the very beginning of the new constitution. If such a special measure as has been suggested above for the initial and transitional period could be made, I feel that the position of women in the India of the future would be made secure.

November 11th, 1931.

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#### APPENDIX XIV.

### MEMORANDUM REPRESENTING THE VIEWS OF A NUMBER OF INDIAN WOMEN'S ORGANISATIONS.

*Presented to the Conference by Mrs. Naidu and Begum Shah Nawaz.*

We herewith beg to submit the official Memorandum jointly issued on the status of Indian women in the proposed new Constitution by the All India Women's Conference on Education and Social Reform, the Women's Indian Association and the Central Committee of the National Council of Women in India. These three premier Organisations include the great majority of progressive and influential women of all communities, creeds and ranks who are interested in social, educational, civic or political activities, and are accredited leaders of organised public opinion amongst women.

This Manifesto, signed by the principal office bearers of these important bodies, may be regarded as an authoritative statement of representative opinion, duly considered and widely endorsed, on the case and claim of Indian women.

We have been entrusted with the task of presenting to the Round Table Conference their demand for a complete and immediate recognition of their equal political status, in theory and practice, by the grant of full adult franchise, or an effective and acceptable alternative, based on the conception of adult suffrage.

(C5585)

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We are further enjoined to resist any plea that may be advanced by small individual groups of people, either in India or in this country, for any kind of temporary concessions or adventitious methods of securing the adequate representation of women in the Legislatures in the shape of reservation of seats, nomination or co-option, whether by Statute, Convention, or at the discretion of the Provincial and Central Governments. To seek any form of preferential treatment would be to violate the integrity of the universal demand of Indian women for absolute equality of political status.

We are confident that no untoward difficulties will intervene in the way of women of the right quality, capacity, political equipment and record of public service in seeking the suffrages of the nation to be returned as its representatives in the various Legislatures of the country.

We ask that there should be no sex discrimination either against or in favour of women under the new constitution.

Will you be so good as to treat our covering letter as part of the official document submitted to you on behalf of our Organisations.

*November 16th, 1931.*

## MEMORANDUM ON THE STATUS OF INDIAN WOMEN IN THE PROPOSED NEW CONSTITUTION OF INDIA.

The All-India Women's Conference, The Women's Indian Association and The Central Executive Committee of the National Council of Women in India welcome and endorse the Declaration of the fundamental rights of citizenship in India under the future constitution drawn up by the accredited leaders of the Nation, namely :—

“ Equal rights and obligations of all citizens, without any bar on account of sex.

No disability to attach to any citizen by reason of his or her religion, caste, creed or sex in regard to public employment, office, power or honour and in the exercise of any trade or calling.”

### OBJECT OF THE PRESENT MEMORANDUM.

This Declaration of the fundamental rights of citizenship in India having been made, the recognition of women's equal citizenship in all matters relating to franchise, representation, or employment has become an accepted principle. The present Memorandum is, therefore, concerned only with the methods by which women may be enabled to exercise to the full their legitimate rights.

The women of India on the basis of their admitted and declared equality, demand that in actual practice no disqualifications or conditions shall be laid down which may hamper them in any way from the fullest exercise of the right of voting at public elections or offering themselves as candidates for seats on Legislative or Administrative institutions. Similarly, no impediments should be placed in their way in the matter of the holding of public office or employment which might, in effect, bar women from taking their full and equal share in civic rights and obligations.

### FRANCHISE.

#### *Present Conditions and the Necessity for the Demand.*

The experience of women under the existing constitution makes the foregoing demand imperative. In spite of equality in theory, they suffer in practice from a grave inequality owing to the right of voting being conditioned by property-holding or other similar qualification, ordinarily inaccessible to women in India. Though the resolution of the Indian National Congress declares for an immediate acceptance of the principle of adult suffrage, it may be argued nevertheless, that the first step towards the adoption of that

principle might require, for its successful practice, the conditioning of the exercise of the right by some qualification of the type above mentioned. However, we cannot but point out that, though the theoretical equality of men and women citizens might conceivably be maintained under such a practice, the position of women will inevitably be rendered wholly unequal under the existing social systems, it being generally recognized that very few women hold or own property in their own name or right.

Again, even if the property qualification for voting or candidature is made nominal, women are likely to suffer as long as our social systems remain as they are.

As compared with men, very few women would have even nominal property in their own names and right, and since a very considerable proportion of the adult women of India is either married or widowed, the voting rights of all such would, on a property basis of any kind have to follow the corresponding rights of their husbands.

There is yet another difficulty to be considered in this connection. Even if the franchise system permits a wife or widow to enjoy the same voting rights as the husband, this position will not commend itself to the educated and thinking women of India, inasmuch as it makes the citizenship of woman contingent on her relationship—past or present—to a man, for a very large proportion of women. We are strongly of opinion *that the Elementary Rights of Women as human beings should not be based on an extraneous factor like Marriage.*

If a literacy test of any kind is introduced as a condition precedent for the exercise of civic rights, women will be placed at a still greater disadvantage, for the obvious reason that there are many more literate men than women.

Moreover, if as is likely and necessary, some age limit is fixed for the exercise of such rights, the handicap on women will be still further increased, for relatively speaking there are fewer literate women above the voting age than below it.

Therefore, the conditioning of the right of franchise, either by property or literacy qualifications, would be *fundamentally inconsistent with the Declaration of Rights above quoted.*

In these circumstances, the All-India Women's Conference, the Women's Indian Association and the Central Executive Committee of the National Council of Women in India, consider the immediate, unqualified and unconditional adoption of the principle of *Adult Franchise* to be the best and most acceptable mode of assuring and securing political equality between the men and women of this country. They unhesitatingly consider all conditions or qualifications or tests for the exercise of this right, whether based on property or literacy, to be needless impediments in the way of the enjoyment by women of civic equality.

Accordingly they recommend that :—

*Every man or woman of the age of 21 should be entitled to vote and to offer himself or herself as a candidate at any election to an Administrative or Legislative Institution.*

## REPRESENTATION.

We are confident that, if this practical equality is secured for women in the matter of Franchise, they will be able to find their way into the Legislative and Administrative Institutions of the country through the open door of ordinary election.

No special expedients for securing the presence of women on these bodies, such as reservation, nomination or co-option would then be necessary.

*The Women of India have no desire to seek any specially favoured treatment for themselves, provided that their full and equal citizenship is recognized in practice as it is in theory.*

## PUBLIC SERVICES AND EMPLOYMENT.

It is but a corollary to this practical equality between men and women that women should be eligible, in the same way as men and on the same conditions, for all grades and branches of the Public Services, as they are entitled, under the Declaration of Rights, to equality in the exercise of all trades, professions and employment.

## DISQUALIFICATIONS.

As distinguished from the qualifications, etc., for voting, in which the women of India demand an absolute and effective equality, the disqualifications for the exercise of civic rights should be based on purely personal grounds.

Thus, the fact of a woman's relationship to a man or the disqualification, if any, attaching to her male relative of any degree, should in no way prevent her from exercising to the full her legitimate rights.

*August, 1931.*

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## APPENDIX XV.

## COMMUNAL REPRESENTATION.

*Memorandum by Sir Provash Chunder Mitter.*

As the Minorities Committee will meet soon, I think that as the sole Hindu representative from Bengal on that Committee, I ought to place the position with regard to Bengal before my fellow Delegates.

The claims on behalf of the different minorities have been put forward as follows :—

In the first two cases I am ignoring decimals—							<i>Per cent.</i>
Muslims	..	..	..	..	..	..	55
Backward Classes	..	..	..	..	..	..	25
European Communal	..	..	..	..	..	..	5
Indian-Christians	..	..	..	..	..	..	3
Anglo-Indians	..	..	..	..	..	..	2
Total							90

Since then I have seen it stated in the Press that Mahatma Gandhi offered 51 per cent., instead of 55 per cent., to the Muslims. The above claims do not take into account the claims for class seats. So far as I am aware the claims for class seats are :—

	<i>Per cent.</i>
British (at present they have 11 in a House with 114 elected members)	10
Labour (a number of seats, but I am not aware of the actual percentage claimed)	..
Indian Trade and Commerce	5
Landlords	7½
Universities	2
Total	24½

It will appear from the above that if all these claims are admitted or accepted, the total is considerably over 100 per cent., and that the Hindus (other than the Backward Classes) whose population runs into many millions, will not have any seats from the general electorate.

This position, of course, is untenable, and a mere statement of facts will show what the position is.

Although I am the sole Hindu representative from Bengal on the Minorities Committee, no offer has yet been made to me, nor even was the question discussed either with me or with any of my Hindu fellow Delegates from Bengal who are not on this Committee, by the Muslim group. I was, however, told a few days ago by one of the Muslim representatives from Bengal that the Muslim delegation is of the opinion that the question should be settled on an all-India basis.

*November 11th, 1931.*

# **SUPPLEMENTARY MEMORANDUM BY SIR PROVASH CHUNDER MITTER.**

With reference to the claim of the Muslims regarding a statutory majority of the whole House on the basis of communal electorates, I desire to put on record that before I left India I consulted Hindu-elected members of the Bengal Legislative Council, members of the Executive Committee of the Indian Association (an important and old-established association founded by the late Sir Surendra Nath Banerjea and other leaders in 1875), and the Executive Committee of the British Indian Association (the oldest political association in Bengal, being established in 1851). I also consulted some prominent Congressmen with whom I could get into touch. I found that Hindu public opinion was strongly against acceptance of the claim of the Muslims for a statutory majority of the whole House.

I also consulted Hindu public opinion in Bengal as regards joint electorates with reservation of seats, and I found that, generally speaking, Hindu public opinion was strongly in favour of joint electorates with such reservation. I understand, however, that the Muslim Delegation, who are organised as a party on an all-India basis under the leadership of H.H. the Aga Khan, are not prepared to deviate from the claim for communal representation, so I refrain from placing the details of Bengal Hindu opinion regarding adjustment of the communal question on the basis of joint electorates with reservation of seats. I may mention in this connection that although I am the sole Hindu representative from Bengal on the Minorities Sub-Committee, I was never asked by the Muslim Delegation to discuss the Bengal communal question with them; I may add that I tried to convey the information that I was quite willing to discuss the matter.

I will next refer to the claims of the different minorities and class interests. These claims, as originally put forward, were as follows :—

	<i>Per cent.</i>
In both these cases I am ignoring decimals—	
Muslims .. .. .	55
Backward Classes .. .. .	25
European Communal .. .. .	5
Indian-Christians .. .. .	3
Anglo-Indians .. .. .	2
	—
Total .. .. .	90

In the claims so put forward, the claims for class seats were not specifically discussed, but so far as I am aware the claims for class seats are :—

	<i>Per cent.</i>
British (at present they have 11 in a House of 114 elected members, over and above 5 communal seats) .. .. .	10
Labour (a number of seats, but I am not aware of the actual percentage claimed) .. .. .	—
Indian Trade and Commerce .. .. .	5
Landlords .. .. .	7½
Universities .. .. .	2
	—
	24½ (excluding Labour).

It will appear from the above that if all these claims are admitted or accepted the total is considerably over 100 per cent., and that the Hindus (other than the Backward Classes), whose population runs into many millions, will not have any seats from the general electorate. This position is, of course, untenable, and a mere statement of the facts will show what the position is.

Since these claims were put forward, a joint Note has been circulated over the signatures of H.H. The Aga Khan on behalf of the Muslims, Dr. Ambedkar on behalf of the Depressed Classes, Rao Bahadur Pannir Selvan on behalf of the Indian Christians, Sir Henry Gidney on behalf of the Anglo-Indians, and Sir Hubert Carr on behalf of the Europeans. The arrangement for division of seats put forward in this joint Note is totally unacceptable to the Hindus of Bengal. My personal opinion is, and I say this from my 37 years' experience of the public life of my Province, that if this scheme is accepted then the consequences will be disastrous. It will mean the increase of direct action, and more physical conflict between the two communities. I have stated my views on the point in a short speech before the Federal Structure Committee on November 18th, 1931. I do not, for the sake of peace which I value so much, desire to elaborate the reasons which induced me to come to the conclusion mentioned above. I may add that I do not belong to the Hindu Mahasabha movement, and I genuinely believe that adjustment of the Hindu-Muslim question on some workable basis is a *sine qua non* of political progress in India.

As the Hindus, Muslims and Sikhs have not been able to come to an agreed decision, we have to consider and advise His Majesty's Government as to what is to be done. I still adhere to the opinion I expressed in my short speech to the Federal Structure Committee on November 18th, that the best course will be to send out a small Commission to find out the facts. That Commission should have Indians associated with it, and may well consist of three British statesmen and two Indian judges, one a Muslim judge and the other a Hindu judge. The Indian representatives should not be political people, because every politician has his own views on the matter. As, however, an objection has been taken by an eminent Indian to associate judges with Commission, I am quite willing to accept a slight modification of my original suggestion, by putting forward a further suggestion that, instead of having judges actually holding office, we may have judges who have retired from office, but without intending any disrespect to the political men of India, I do insist that the inclusion of political men will go a long way to defeat the object I have in view. I have already explained in my speech that sending out a Commission of the nature indicated should not hold up the announcement, nor the drafting of the Act, nor any other relevant work in connection with constitutional advance.

I would conclude this Memorandum by suggesting certain general considerations of an important character, which should be taken into consideration in case His Majesty's Government are disinclined to send out a Commission of the nature indicated.

So far, four important schemes were before the public, namely, the Congress scheme, the Communal Muslim scheme, the Nationalist Muslim scheme and the Hindu Mahasabha scheme. The unfortunate part is that the Hindus do not agree to the Communal Muslim scheme, and the Muslims do not agree to accept any of the other three schemes. Further, on the Hindu side there is a difference of opinion with regard to the Congress scheme and the Hindu Mahasabha scheme. The net result is that the two communities have been unable to come to an agreed decision. Further, there is to my mind a common defect in all the four schemes, namely, that if any of these schemes are accepted it will mean that in some Provinces there will be a Hindu majority, in others a Muslim majority (perhaps on account of the disposition of the population this is inevitable), but no practical suggestion has been made in any of these schemes by which the minority in any Province—to whichever community that minority may belong—will be in a position to effectually influence the members of the Legislature who may be returned on the votes of the majority community. For that reason I submit that



some new method had better be explored. One such method which, in my opinion, may well be worth considering, although I realise that unless the two communities agree to explore the method for the sake of peace it will serve no useful purpose to press this method, is as follows :—

1. In constituencies where less than 10 per cent. of the total number of voters belong to the Hindu or the Muslim community, in the counting of votes each vote of the minority community will count as two, both with regard to the election of the Hindu or of the Muslim candidate.

2. In constituencies where 10 per cent. but not more than 30 per cent. of the total number of voters belong to the Hindu or the Muslim community, in the counting of votes the votes of the minority community will be increased by 50 per cent. (that is to say, each vote will count as  $1\frac{1}{2}$  votes) both with regard to the election of the Hindu or of the Muslim candidate.

Another suggestion that I venture to put forward is that this baffling problem will be easier of solution if, instead of attempting to solve it on an all-India basis, we try to solve it Province by Province. Not only will such a line be more consonant with realities, but we are likely to meet with less difficulty if we try to solve the problem Province by Province. In support of my suggestion regarding the settlement of the problem Province by Province, I would point out that the real difficulty to-day is about the Provinces. The difference between the two communities as regards the all-India Legislatures is neither so great nor so determined as that with regard to some of the Provinces.

Another objection that I have to the four schemes mentioned above is that as under those schemes in a number of Provinces one community will be in a majority, without the minority community being in a position to more effectually influence the members who are returned to the Legislature by the majority community, it is extremely likely that pressure will be brought to bear on Ministers who will depend on the support of the majority community. Such pressure may lead to the oppression of the minority community, or if not actual oppression, the minority community may work itself up to the belief that it is oppressed. If such a state of things arises in one Province where one particular community may be in a majority, it is extremely likely that we shall have the reaction of such a position in other Provinces where the other community is in a majority. If such a contingency arises, then the whole of India may be brought into the vortex of communal passion and communal conflict.

I therefore suggest that the best course will be to appoint a small Commission of the nature of the one I have indicated above. Such a Commission will not only be in a better position to ascertain materials which are lacking to-day, but they will also be in a better position to find out how the larger number of representatives who will be available in India will accept a particular kind of electoral arrangement. After all, none of us should forget that the question before us is not a question of the division of a purse or a property belonging to an individual, but the question before us is how the masses belonging to two great communities will agree to work the electoral arrangements in order to evolve a system of responsible government based on persuasion and discussion, and not on coercion or physical conflicts.

In conclusion, I would make a further suggestion, namely, that whatever decision may be arrived at, it should be on the basis of the seats reserved for general constituencies, and should not be on the basis of a percentage of the whole House. The Simon Commission, as well as the Government of India, proceeded on this basis. Many of the difficulties will be avoided if we give up the idea of a majority or a minority of the whole House. Further, what we are discussing really appertains to the general constituency seats

and not to special or class seats. In this connection there is another point which should be mentioned, namely, that seats for Europeans, Anglo-Indians and Indian-Christians, should, in every Province come from the majority community and not from the minority community. As regards other class seats like Labour, Landlords, Indian Trade and Commerce (but not British Trade and Commerce), the seats may well come from both the communities, although in point of fact at a particular stage of the development of a particular Province one community may have an advantage over the other. There is no reason, however, why—given the necessary self-help without which no real political progress is possible—such an advantage should be of more than a temporary nature.

(Signed) P. C. MITTER.

20th November, 1931.

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## APPENDIX XVI.

### THE COMMUNAL PROBLEM IN THE PUNJAB.

*Memorandum by Sir Geoffrey Corbett  
(circulated at the request of Mr. M. K. Gandhi).*

The communal problem in the Punjab may be stated as follows:—

A. The Muslims, being a majority of the population, claim to have a majority in the Legislature. For this they consider separate electorates to be necessary, because their numerical majority is not sufficient to outweigh the greater wealth and influence of other communities, to which the Muslim ryots are stated to be heavily indebted.

B. The Sikhs would prefer joint electorates. But if the Muslims have separate electorates, the Sikhs claim—

(a) that Muslim representation by separate electorates must be less than 50 per cent. of the whole Legislature;

(b) that the Sikhs must also have separate electorates with substantial weightage, as claimed by Muslims in Provinces where they are a minority.

C. The Hindus desire joint electorates, but they are willing to accept any compromise which satisfies the following principles:—

(a) There must be no reservation of seats for a majority community which would give it a "statutory majority" in the Legislature;

(b) The reservation of seats for a minority community must not be less than its population basis, that is, weightage must not be conceded to other communities at the expense of a minority community.

2. It cannot be said that any one of these claims is unreasonable, or should properly be abandoned. The fact is that in the Punjab as now constituted the communities are so distributed that their legitimate claims are irreconcilable. There is no margin for allowances, and a solution becomes mathematically impossible. Further, a solution that is dependent on population percentages can have no finality, but must be subject to revision at each ensuing census. The problem has indeed been substantially affected even since the last Session of the Conference by the publication of the recent census figures.

3. If then a solution is practically impossible in the Punjab as now constituted, the logical remedy would be to re-adjust the boundaries of the Punjab. It would be unwise and unjustifiable to "jerrymander" provincial boundaries for communal purposes. There is, however, a demand for a general redistribution of Provinces. To quote Chapter IV of the Nehru Committee's Report, "the present distribution of Provinces in India has no rational basis. It is merely due to accident and the circumstances attending the growth of the British power in India." The resultant Provinces, though possibly convenient for the purposes of British rule, are not necessarily suitable units for responsible self-government. Redistribution should be considered on the following grounds :—

- (a) linguistic, ethnical and historical ;
- (b) economic, geographical and administrative.

I propose now to approach the Punjab problem from this point of view, without regard to communal considerations.

4. Historically the Ambala Division is part of Hindustan ; its inclusion in the Province of the Punjab was an incident of British rule. Its language is Hindustani, not Punjabi ; and its people are akin to the people of the adjoining Meerut and Agra Divisions of the United Provinces rather than to the people of the Punjab.

Economically, the most important factor in the life of an agricultural people is irrigation. It is administratively desirable that an irrigation system should be controlled by a single provincial Government. Otherwise there will inevitably be disputes about the distribution of water, involving perhaps a permanent inter-provincial Irrigation Commission or the intervention of the Federal Government. The Ambala Division is not irrigated from the Five Rivers, but from the Jumna system, on which the adjoining districts of the United Provinces also depend. But the Simla district and the north-west corner of the Ambala district, which are watered by the Sutlej, and contain the head-works of the Sirhind canal, should remain in the Punjab.

5. It is fair to assume, therefore, that in any rational scheme for the redistribution of Provinces the Ambala Division, less the Simla district and the north-west corner of the Ambala district, would be separated from the Punjab. The unwieldy United Provinces might also be divided into a western Province of Agra, which would include the Ambala Division, and an eastern Province of Oudh ; but this is a matter which is beyond the scope of this memorandum. It remains to be considered how such a reconstitution of the Punjab would affect the communal problem.

6. The population of the new Punjab would compare with the population of the existing Punjab as follows :—

(Figures in thousands).

<i>As now constituted.</i>					<i>Without Ambala Division (less Simla).</i>	
					Per cent.	Per cent.
Muslims .. .. .	11,444	55·3	10,445	61·8		
Hindus .. .. .	6,579	31·8	3,997	23·6		
Sikhs .. .. .	2,294	11·1	2,137	12·6		
Others .. .. .	367	1·8	324	2·0		
	<hr/> 20,685		<hr/> 16,903			

The figures of the 1921 census have been taken, because the district communal figures of the 1931 census are not yet available. The figures of the 1931 census for the Province as now constituted are as follows :—

	(Figures in thousands).						Per cent.
Muslims .. .. .	..	..	..	..	..	13,332	56·5
Hindus .. .. .	..	..	..	..	..	6,728	28·6
Sikhs .. .. .	..	..	..	..	..	3,064	13·0
Others.. .. .	..	..	..	..	..	467	1·9
						<hr/> 23,581 <hr/>	

It follows that the total population of the new Punjab would be about 19 millions, and the percentages of Muslims and Sikhs would be somewhat higher than the 1921 percentages.

7. To what extent, then, would it be possible in the reconstituted Province to satisfy the claims of each community, as stated at the beginning of this memorandum ?

A. The Muslims, being 62 per cent. of the total population, would be sure of a majority in the Legislature through territorial constituencies with joint electorates, without reservation of seats, provided that the qualifications for the franchise were so determined as to reflect their numerical strength in the electoral roll.

The Franchise sub-Committee and the scheme of the Congress Working Committee have already recommended that the franchise should reflect in the electoral roll the proportion in the population of every community.

The basis of territorial constituencies with joint electorates would naturally be the existing administrative districts. The western districts of the Punjab are predominantly Muslim and the eastern districts are predominantly Sikh and Hindu. Excluding Simla, which has a population of only 45,000, and may be grouped for electoral purposes with the adjoining hill district of Kangra, there are now 28 districts in the Punjab ; and in 15, or 53 per cent., of them, the Muslims are more than 60 per cent. of the population. Without the Ambala Division, there would be 23 districts ; and in 15, or 65 per cent., of them, the Muslims would be more than 60 per cent. of the population.

B. The Sikhs would have the joint electorates which they prefer, and through which they feel that they can best exercise their influence. They would no longer require separate electorates or weightage. Further their numerical strength would be relatively increased from 11·1 per cent. of the population in the province as now constituted to 12·6 per cent. according to the figures of 1921, and about 15 per cent. according to the figures of 1931.

C. The solution satisfies the two principles within which the Hindus are willing to compromise ; there would be no " statutory majority " by reservation of seats, and no weightage at the expense of a minority community. The Hindu proportion of the population would be substantially diminished, but they would have the joint electorates which they desire, and through which, in their view, a minority community is best able to exercise its influence.

*October 12th, 1931.*

## PUNJAB—1921 CENSUS.

(Population in thousands.)

Districts.	Hindus.	Per cent.	Muslims.	Per cent.	Sikhs.	Per cent.	Others (Mostly Christian).	Per cent.	Total.
<i>Rawalpindi Division.</i>	309	8.9	2,973	86.1	153	4.4	26	0.7	3,461
(1) Gujrat ..	63	7.7	710	86.3	49	5.9	2	—	824
(2) Shahpur ..	82	11.4	596	82.8	30	4.2	12	1.6	720
(3) Jhelum ..	35	7.3	423	88.7	19	4.0	—	—	477
(4) Rawalpindi	57	10.0	470	82.6	32	5.6	10	1.8	569
(5) Attock ..	26	5.1	466	91.0	20	3.9	—	—	512
(6) Mianwali ..	46	12.8	309	86.4	3	0.8	—	—	358
<i>Multan Division.</i>	622	14.8	3,246	76.9	290	6.9	60	1.4	4,218
(7) Montgomery	95	13.3	513	71.8	96	13.5	10	1.4	714
(8) Lyallpur ..	181	18.5	595	60.7	161	16.5	42	4.3	979
(9) Jhang ..	85	14.9	475	83.3	9	1.6	1	0.2	570
(10) Multan ..	134	15.1	732	82.2	18	2.0	6	0.7	890
(11) Muzaffargarh	70	12.3	493	86.8	5	0.9	—	—	568
(12) Dera Ghaza Khan.	57	12.2	411	87.6	1	0.2	—	—	469
Biloch Trans-Frontier Tract.	—	—	27	—	—	—	—	—	27
<i>Lahore Division.</i>	1,124	22.4	2,849	57.1	813	16.3	211	4.2	4,997
(13) Lahore ..	256	22.6	648	57.4	180	15.9	47	4.1	1,131
(14) Amritsar ..	204	22.0	424	45.6	287	30.9	14	1.5	929
(15) Gurdaspur	259	30.4	423	49.6	138	16.2	32	3.8	852
(16) Sialkot ..	218	23.2	581	62.0	75	8.0	64	6.8	938
(17) Gujranwala	102	16.4	443	71.0	51	8.2	28	4.4	624
(18) Sheikhupura	86	16.5	331	63.3	83	15.9	23	4.3	523
<i>Jullundur Division (+ Simla).</i>	1,942	45.9	1,377	32.7	881	20.8	27	0.6	4,227
(19) Kangra and Simla.	755	93.1	45	5.6	3	0.4	8	0.9	811
(20) Hoshiarpur	500	54.0	289	31.2	133	14.3	5	0.5	927
(21) Jullundur..	245	29.8	367	44.6	206	25.0	5	0.6	823
(22) Ludhiana ..	136	24.0	193	34.0	236	41.5	3	0.5	568
(23) Ferozepore	306	27.9	483	44.0	303	27.6	6	0.5	1,098
<i>Ambala Division (less Simla).</i>	2,582	68.3	999	26.4	157	4.2	44	1.1	3,782
(24) Hissar ..	548	67.1	216	26.4	46	5.6	7	0.9	817
(25) Rehtak ..	630	81.6	125	16.2	1	0.1	16	2.1	772
(26) Gurgaon ..	460	67.5	217	31.8	1	0.1	4	0.6	682
(27) Karnal ..	573	69.1	236	28.5	12	1.4	8	1.0	829
(28) Ambala ..	370	54.2	206	30.2	98	14.4	8	1.2	682
Punjab (Total) ..	6,579	31.8	11,444	55.3	2,294	11.1	368	1.8	20,685

## APPENDIX XVII.

## NOTE ON THE REDISTRIBUTION OF THE PUNJAB.

*By Raja Narendra Nath.*

Sir Geoffrey Corbett's scheme of the separation of Ambala Division from the Province as at present constituted, is unacceptable to me for the reason for which the Sikh scheme of partition is unacceptable to the Muslims. The Sikh scheme reduces the Muslim population from 56 per cent. at present to 44 per cent. in the new Province. Sir Geoffrey's scheme reduces the Hindu population from 29 per cent. to 23 per cent.

I have not been able to ascertain the views of the Hindus in various parts of the Punjab. I do not know what the Hindus of the Western Punjab may have to say to their being joined on to N.W.F.P. But if the new Province is formed as proposed by the Sikhs, reservation of seats for the Hindu minority on the basis of population will be absolutely necessary.

I find that Sir Geoffrey Corbett's scheme which appeared to have been received with delight by the Muslims here, is unacceptable to the Muslims of U.P. On the whole I think that partition of Punjab will afford no solution of the Communal problem. All partition schemes should in my opinion be shelved.

*November 13th, 1931.*

## APPENDIX XVII.

## A SCHEME OF REDISTRIBUTION OF THE PUNJAB.

*Memorandum by Sardar Ujjal Singh.*

According to 1921 census, the Punjab has a total population of 20,685,024.

The Muslim and Sikh population in the five divisions into which Punjab is divided for administrative purposes is as follows :—

	<i>Muslim.</i>		<i>Sikh.</i>	
	Population.	Per cent.	Population.	Per cent.
Ambala Division .. ..	1,006,000	26·3	158,000	4·2
Jullundur Division .. ..	1,370,000	32·8	886,000	21·0
Lahore Division .. ..	2,849,000	57·0	813,000	16·2
Multan Division .. ..	3,246,000	76·9	290,000	6·9
Rawalpindi Division .. ..	2,973,000	86·0	183,000	4·9

It is clear from the above table that Rawalpindi and Multan Divisions are overwhelmingly Muslim divisions. There are two districts, however, in Multan Division, namely, Lyallpur and Montgomery, which are colony districts. A considerable population of the central Punjab has settled down there. The Sikhs being good colonists have settled in fairly large numbers in those two districts, as they constitute 13·4 per cent. of the population in Montgomery district and 16·4 per cent. in Lyallpur District. The Muslim population in these two districts is 71 and 60 per cent. respectively. A great portion of the Muslim population in these two districts also has migrated from the Central Punjab.

A glance at the map of the Punjab and N.W.F.P. will clearly show that all the districts excepting Lyallpur and Montgomery, which are more centrally situated in the two divisions of Rawalpindi and Multan, run along the N.W.F. Province and Baluchistan. In some of these districts people speak language which is almost similar to the language of the adjoining Frontier district. Dera Ghazi Khan district is inhabited by people who have common language, custom and religion with the population in Baluchistan. Campbellpur,

Mianwali and Muzaffargarh districts have little if any difference from the people of the adjoining Frontier district of Dera Ismail Khan. Punjab Province as we find it to-day was never one Province consisting of all these districts prior to its annexation by the British. Some of these Western districts were conquered and brought under the then Lahore Government by Marahaja Ranjit Singh.

It is suggested therefore that the two Western divisions of Rawalpindi and Multan, minus the Lyallpur and Montgomery districts, be detached from the Punjab and amalgamated with N.W.F.P.

Such a redistribution of the Punjab will serve a double purpose. It will in the first instance give the Sikhs such a proportion of population as will provide for them a protection without claiming any weightage or reservation. The population of the Province after excluding these two Western divisions will be more evenly distributed among the three communities. The Mussalmans will be 43.3 per cent., Hindus 42.3 per cent., and Sikh 14.4 per cent. In such proportions parties on other than communal lines will find ample scope for development. The Sikhs in that case will claim no weightage nor any reservation of seats, and at the same time will not grudge any weightage to be given to Muslim minorities in other Provinces. Of course an equivalent weightage will be allowed to the Hindu and Sikh minorities in the N.W.F.P. and Sind, if separated.

It will be seen that in such a redistribution the Sikhs will not be gainers so far as the amount of their representation goes. The Muslims will still be the strongest individual group. But Sikhs do not want any gain or domination. What they want is that their representation should be such as to enable them to make an effective appeal to the other community if any one of these groups tries to tyrannise over them.

The second advantage of this redistribution would be that N.W.F.P. by the addition of ten districts with a population of 6 millions, will become a fairly large province, fully entitled to the status of a Governor's Province. The total population of this enlarged Frontier Province will be over 8 millions, with Muslims forming 87 per cent. of the population. It will be able to bear its burden of expenditure which provincial self-Government will necessitate and which the existing N.W.F.P. cannot possibly meet. If, however, the amalgamation with N.W.F.P. be not acceptable, these Western districts can form a separate Province.

All sections of the Sikh community are unanimously of the opinion that they will in no case agree to the domination of a single community in the Punjab, if it is not reconstituted on the above lines. Their population has risen from 11 to 13 per cent., which corresponds approximately to the Muslim population in U.P. Whereas the Muslims of U.P. are enjoying over 31 per cent. representation, the Sikhs have had to put up with an 18 per cent. representation on the Punjab Council. The Sikhs have been rightly claiming 30 per cent. representation. Their claim has been strengthened by the rise in their population. The Mussalmans should not in justice deny to the Sikhs the same rights which they are enjoying in their minority Provinces and are trying to strengthen further in India as a whole by other proposals.

The Sikhs have suggested an alternative and give the choice to the Muslim brethren. Either weightage to an extent of 30 per cent. with no single community in majority or the redistribution of the Punjab.

If neither of the two solutions is acceptable the Sikhs will not accept any constitutional advance in the Punjab. Let the rest of India go ahead and let the Punjab be administered by the Central Government. This is the considered opinion of the entire Sikh community whether Nationalists, Moderates or Loyalists.

These sentiments were expressed to Mahatma Gandhi in Delhi and were conveyed to the Viceroy in the address presented to His Excellency by the Sikhs in July last.

## 1921 CENSUS FIGURES.

Multan Division .. .. .	<i>Total Population.</i> 4,218,360
Rawalpindi .. .. .	3,460,710
Multan Division, minus Lyallpur and Montgomery 979,963 + 713,786	2,525,111
<u>1,693,249</u>	<u>5,985,821</u>

## PUNJAB WHEN RECONSTITUTED.

	<i>Total Population.</i>	<i>Muslims.</i>	<i>Sikhs.</i>	<i>Hindus and Others.</i>
Ambala Division .. .. .	3,826,615	1,006,159	153,208	—
Jullundur Division .. .. .	4,181,898	1,369,648	879,653	—
Lahore Division .. .. .	4,997,441	2,848,800	813,310	—
Lyallpur District .. .. .	979,463	594,917	160,821	—
Montgomery District .. .. .	713,786	513,055	95,520	—
	<u>14,699,203</u>	<u>6,332,579</u>	<u>2,107,512</u>	<u>—</u>
		43·3%	14·4%	42·3%

## N.W.F. PROVINCE ENLARGED.

	<i>Total Population.</i>	<i>Muslims.</i>	<i>Sikhs.</i>	<i>Hindus and Others.</i>
Existing N.W.F.P. .. .. .	2,471,527	2,250,389	47,935	173,203
		Total	221,138	9%
Rawalpindi Division .. .. .	3,460,710	2,973,371	152,956	334,383
Multan Division, minus Lyallpur and Mont- gomery Districts .. .. .	2,525,111	2,138,371	33,639	353,101
Total .. .. .	<u>8,457,348</u>	<u>7,362,131</u>	<u>234,530</u>	<u>860,687</u>
		Total	1,095,217	13%

October 8th, 1931.



## APPENDIX XVIII.

**MEMORANDUM ON THE "PROVISION FOR THE SETTLEMENT OF THE COMMUNAL PROBLEM" (APPENDIX III).***By Dr. S. K. Datta.*

This morning brought me a copy of the document entitled "Provision for a settlement of the communal problem put forward jointly by Muslims, Depressed Classes, Indian Christians, Anglo-Indians and Europeans." The signatories are five in number, and they assert that the proposals made by them may be taken as being acceptable to well over a hundred and fifteen millions of people. No claim to the support of a unanimity so wide in its scope has yet been made by any other group of persons at the Conference. As a member and a representative of one of the communities whose consent has apparently been given, I feel it incumbent upon me to make it clear why I am unable to support the provisions as a whole.

Certain of the matters on which an agreement has been arrived at would be acceptable to me, such as the provisions assuring religious liberty and the protection of Minorities against discrimination in the matter of civic rights. On such fundamental principles there can be no doubt of the support of the entire Christian community, but on the other highly controversial points brought forward, it is impossible to conceive of a unanimity of support. The Indian Christian community, which numbers nearly six millions, including those in the Indian States, is scattered throughout India, a substantial number being included in the population of the Madras Presidency. Now the vast majority of these Christians belong to the class of landless agricultural labour, and their kinsfolk are still included among the Depressed Classes of India whose interests have not been wholly overlooked at this Conference. From personal knowledge I would assert that the majority of them, because of poverty and the comparatively high franchise qualifications have little or no knowledge of the electorate and are incapable of judging the merits of communal and general electorates. Thus in the Madras Presidency, out of 1,726,000 Indian Christians, a number of 26,000 only are included on the voters' roll to-day. My duty as I see it is to accept only such proposals as I conceive to be in the best interests of all.

This document has been signed by what are termed Minorities, but it is not yet clear upon what the Minority grouping is based. It would seem to be accepted that the basis of a community is the profession of a particular religion. If this were true then it would follow that Indian Christians, Europeans and Anglo-Indians should be classed together as one community, but any attempt to unite them would immediately be resented. This would seem to indicate a second possible basis for a community, namely, race, since the Christian community is to be sub-divided again on the basis of race, each sub-division demanding special, if not specific, protection. The Depressed Classes have their own basis of classification; they profess the Hindu religion but assert that they are the victims of its social tyranny. Hence, while professing the same religion, they ask for protection against the majority of their co-religionists. As the result of these demands the fragmentation of India is proceeding apace.

But if we accept the present grouping of the Minority communities, the Memorandum has yet failed to consider fully the fundamental problem of what the minorities really desire to protect, and of how they may best protect these interests. If the signatories and their supporters had discussed these matters more fundamentally it might possibly have been shown that the interests it was desired to protect might best have been protected not by the separate electorate but by some other method. In the matter of

electorates alone it might be considered whether if the minorities, say in the Madras Presidency, desired to protect themselves against Hindu domination they would not have better results by combining themselves into an electorate consisting of Muslims, Christians, Europeans, Anglo-Indians and Depressed Classes. You would then have in the Legislature a bloc of members who could effectively deal with the Hindu majority. In the Punjab it might be otherwise, where Hindus, Sikhs, Christians and Europeans, as well as Depressed Classes, might be elected from a common register, thus effectively creating an opposition to the Muslim majority. Apart from the question of electorates, too, is it not possible that the best interests of the Depressed Classes might be best served by statutory provision making liberal financial grants for education purposes, administered by a trust incorporated by legislative measure?

At the time of the Morley-Minto Reforms special electorates were created for certain groups of Muslims. They were small in number and limited in scope. Under the Government of India Act of 1919 the special electorate was extended to the Muslims and to certain other communities, Anglo-Indians, Europeans, Indian Christians and Sikhs. The scope with regard to the Indian Christians was limited to the Madras Presidency. Under the aegis of the Muslim community it is now proposed to extend the application of the principle over a wider area, and to increase the number of candidates elected by this method.

Some of my colleagues, including one of the signatories of this document, have made it evident that they hope this regime of communal electorates is only transitory, but necessary to ensure the peace in which the great constitutional changes which are envisaged, will be carried out. I do not share their optimism. It will be remembered that the religious social law in India received by a curious mischance the support of British courts both in India and without. Thus the present religious law has been defined and given a conservative mould by the decisions of the Privy Council. It is altogether a baseless fear which conceives of the possibility of the Indian constitution stereotyping for many generations to come the conception of the communities as against the idea of the people of India as a whole?

One of the most serious failures of the Memorandum is its failure to provide for some internal means whereby, by a process of evolution, the communal idea will gradually pass away, and in its place the conception of the community as a whole will emerge. The method for the relinquishment of the communal electorates which the Memorandum proposes will, I believe, prove ineffective. The present constitution provides for the representation of economic interests. Why cannot this principle be extended? Let Labour constituencies be formed on a non-communal basis and extended to the rural areas and agricultural labour.

The weightage assigned to themselves by these communities in the Memorandum are in some cases fantastic, and it cannot but strike the impartial observer that these devices are specifically designed to frustrate the will of certain other communities. As a result of these weightages the construction of the legislature on the basis of fairness to all communities becomes an impossibility.

In considering these grave objections to the Memorandum I recall the words of Sir Henry Gidney this morning, when he asserted that I had given my consent to these negotiations. I may say that Sir Henry has completely misapprehended my conversations with him and my contributions to the proceedings of the Informal Minorities Committee held in October. What I did say was that the main problem demanded a settlement of the Hindu-Muslim question and that the smaller Minorities and the real Minorities like the Christians, Europeans and Anglo-Indians could only come in after that main question had been settled. Now what does this Memorandum reveal? Simply this, that the smaller communities have united with the substantial

community of the Muslims in order to make the position of the majority communities difficult. It would be disastrous for the Christian community if it were to throw its support on the side of one or other of the great contending parties of India.

If it is true that the Christian community needs protection against the Hindu majority in Madras, it is equally true that it will need it against the Muslim majority in Bengal and the Punjab. I had hoped that as far as my community was concerned it would need neither, but that a common Hindu-Muslim agreement would emerge in which the real minorities would find a place. The circumstances under which this agreement has been drawn up will undoubtedly be interpreted as an attempt to impose on the Hindus a regime to which their consent has not been obtained. In such coercion I trust that the community which I represent will have no share.

In conclusion, I may add that on lines such as are proposed in this Memorandum I see little chance of an agreed solution, but what is even more important, I am unconvinced that on this system of legislative representation which might have had a place as long as the executive was irresponsible can be built a government which feels itself responsible to all. The views expressed in this letter are shared by a substantial number of Indian Christians in India.

November 14th, 1931.

## APPENDIX XIX.

### NOTE ON APPENDIX IV.

*By Maulvi Muhammad Shafi Daoodi.*

In this note I only deal with the following passage appearing in the "Memorandum on the Sikhs and the new constitution for India" circulated to the Conference by Sardars Ujjal Singh and Sampuran Singh on the 12th November. The Sardars say:—

"In view of the claim of the President of the last All-India Muslim Conference, we believe that to write the garrison Province of India into the constitution as an unalterably Muslim Province would be to make the dismemberment of India inevitable. That claim, it will be remembered, was that there should be a 'consolidated North-West State, within or without the British Empire,' consisting of the Punjab, North-West Frontier Province, Baluchistan and Sind."

The President of the last All-India Muslim League (*not All-India Muslim Conference as incorrectly stated above*) was Dr. Sir Muhammad Iqbal who wrote as follows in the "Times" of 12th October, 1931, with reference to his words as cited in the above quotation:—

"May I tell . . . that in this passage I do not put forward a 'demand' for a Muslim State outside the British Empire, but only a guess at the possible outcome in the dim future of the mighty forces now shaping the destiny of the Indian subcontinent. No Indian Muslim with any pretence to sanity contemplates a Muslim State or series of States in North-West India *outside* the British Commonwealth of Nations as a plan of practical politics.

"Although I would oppose the creation of another cockpit of communal strife in the Central Punjab, as suggested by some enthusiasts, I am all for a redistribution of India into Provinces with effective majorities of one community or another on lines advocated both by the Nehru and the Simon Reports. Indeed, my suggestion regarding Muslim Provinces merely carries forward this idea."

Dr. Iqbal concludes his letter with a pithy statement of the Muslim position and says—

"A series of contented and well-organised Muslim Provinces on the North-West Frontier of India would be the bulwark of India and of the British Empire against the hungry generations of the Asiatic highlands."

As regards the rest of the claims advanced by the Sardars, I shall have occasion to say something later.

*November 14th, 1931.*

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## APPENDIX XX.

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### MEMORANDUM ON APPENDIX III.

*(By Raja Narendra Nath.)*

The pact between certain minorities, from which the Hindu minorities of the Punjab and Bengal have been excluded, and which was placed before the Minorities Committee on the 13th November, was received by me late on the previous night. I had no time to consider it before I went to the Minorities Committee.

In connection with it, and as a criticism of the proposals made therein, I send this note, which I hope will receive careful consideration and will be placed side by side with the so-called compromise.

I invite attention to Appendix "A" attached to the pact, of which it forms an essential part. Hindus are presumed to be a majority community in the Federal Legislature, and in six out of nine Provincial Legislatures; but the presumption does not stand when it is sought to separate the Depressed Classes from the Hindus. The figures in the Appendix will show that the Hindus are reduced to a minority in almost all Legislatures, whilst not only the weightage of Muslims is maintained, but they are given absolute majority in the Punjab and Bengal.

The problem of the Depressed Classes is not rightly understood by British politicians. Even out of those who have been to India, few have had opportunities of thoroughly examining the question. In the first place, conditions in Northern India are quite different from those in Madras and parts of Bombay. In Northern India itself, conditions vary in different Provinces. There are, however, certain general principles applicable to all. The twofold division of the Hindu population, into depressed classes and caste Hindus, is not correct. The so-called "Depressed Classes" are themselves divided into castes. Each is as strictly endogamous as the higher caste of Hindus. There is a very large section amongst them which is regarded as untouchable by all. If caste Hindus cannot represent the Depressed Classes, owing to their being untouchable, how can a member

of the Depressed Classes, belonging to a certain caste and regarding others as untouchable, be representative of all Depressed Classes? Separate representation will be carried to absurd lengths if small differences justify separate electorates. Corporate civic life, already difficult under the separatist policy followed so far, will become impossible.

Untouchability is due to educational and economical backwardness, and the nature of the occupations which these classes follow. Those among them who take to the liberal professions or are appointed to Government posts, cease to be regarded as untouchable. I understand that gentlemen belonging to the Depressed Classes whose clan was regarded as untouchable, rose to the position of judges of the High Courts and sat on the same Bench with the most orthodox Brahmin Judges. All "Depressed Classes" will in course of time, and by utilising opportunities for education, cease to be regarded as depressed or backward. Their separation or isolation from the Hindus is not a course which ought to be followed, in their own interest. All that is needed is that the future constitution should provide that on account of caste and creed none should be prejudiced in the acquisition and enjoyment of civic rights and the right to public employment.

The difficulty of giving a definition of the Depressed Classes which shall apply to all Provinces has been adverted to in paragraph 58 of Volume I of the Report of the Statutory Commission. In the Punjab, as pointed out in the memorandum submitted by me, the process of reclamation is going on very rapidly. Islam and Sikhism are not the only proselytising religions. The Arya Samaj, which is a Hindu body, also falls into that category. This reformed religious society conducts several educational institutions for the education of the Depressed Classes, who are brought up in the tenets of the Arya Samaj. According to this advanced body of religious reform, all who come within its fold are entitled to wear the Brahminical thread and to recite the Gayatri. Members of the Depressed Classes who embrace the religion of the Arya Samaj are given this privilege. It is therefore not right to assume that these men would like to be dissociated from the Hindus, and would insist upon special representation and separate electorates. In this connection the remarks made in paragraph 79 of Volume II of the Report of the Commission are pertinent, and I cannot help reproducing them *in extenso* :—

"Our object, therefore, is to make a beginning which will bring the depressed classes within the circle of elected representation. How is this to be done? Most of the depressed class associations which appeared before us favoured separate electorates, with seats allocated on the basis of population, though one or two still wished to retain nomination. Separate electorates would no doubt be the safest method of securing the return of an adequate number of persons who enjoy the confidence of the depressed classes, but we are averse from stereotyping the differences between the depressed classes and the remainder of the Hindus by such a step, which we consider would introduce a new and serious bar to their ultimate political amalgamation with others. Such a course would be all the more difficult to justify in those provinces where the breaking down of barriers has advanced furthest. If separate electorates have to be secured them, that is no reason for bringing other cases within this mode of treatment, if it can be avoided. A separate electorate for depressed classes means, as a preliminary, a precise definition of all who are covered by the term, and the boundary would be in some cases difficult to draw. It means stigmatising each individual voter in the list, and militates against the process which is already beginning, and which needs to be in every way encouraged—that of helping those who are depressed to rise in the social and economic scale."

The representation of these classes, even if seats are specially reserved for them, will depend on what the franchise is going to be, and how many of them will come on the electoral roll. In the Punjab, as perhaps in some other Provinces, it may be impossible to frame a constituency on the franchise fixed, and to introduce any system of separate electorates for the Depressed Classes. (Please see the recommendations of various local governments on this point and the remarks of the Government of India in paragraph 35 of their Despatch.)

In Bengal there are tracts in which there is a compact population of the Depressed Classes, and they secure election without separate electorates. In the Bengal Council more than ten members out of the forty-six Hindus returned from general constituencies belong to the Depressed Classes.

On the scale of representation recommended in Appendix "A," the proportion of caste Hindus in the Punjab and Bengal is reduced to 14 and 18 per cent. respectively. There would be a very strong case for weightage to the Hindus of these Provinces if the scale recommended was to receive serious consideration. The Hindus of these two Provinces would in that case claim weightage at the highest rate allowed to the Muslims in Provinces in which they are in a minority.

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# Indian Round Table Conference

(THIRD SESSION)

(17th November, 1932—24th December, 1932)

Reports and Secretary of State's  
closing speech





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## INTRODUCTORY NOTE.

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1. The Prime Minister, in opening the third session of the Round Table Conference on the 17th November, 1932, explained that its object was to supplement the work so far accomplished at the Round Table Conference, by filling in, in some detail, the more important gaps left by the discussions at the two previous sessions.\*

2. The Conference adopted the following Agenda :—

*See pages.*

<b>A. Report of the Indian Franchise Committee.</b>	
<b>Method of Election to and Size of the two Federal Chambers</b>	9-15
<b>B. Relations between the Federal Centre and the Units.</b>	
(a) Legislative	16-21
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<b>I. Form of States' Instruments of Accession</b>	
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The following subjects were considered, in addition :—

<b>Anglo-Indian Education</b>	69-70
<b>Supreme Court</b>	71-73

3. Subjects A, B (b), C, E, G and H, and the subject of the Supreme Court, were discussed in full Conference. Towards the close of the Conference reports recording in summary form the effect of the discussion on each of these subjects were prepared by the Secretariat and laid before the Conference.† Important com-

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\* See Cmd. 3778 of 1931 and 3997 of 1932.

† Except as regards the Supreme Court; a summary of the discussion on this subject will be found on pages 71-73.

ments or suggestions made on the reports by the Conference have either been incorporated in the reports as now printed, or indicated by footnotes thereto.

4. Subjects B (a), D and F were remitted by the Conference after a short general discussion,\* for examination by Committees. Subject I was considered by a limited number of delegates as indicated on page 67. Anglo-Indian Education was also considered by a Committee. The reports of these Committees are followed by a brief summary of the more important points raised in the Conference when it received and noted each report.

5. The Conference closed with a general discussion, ending on 24th December, 1932.

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\* There was no previous discussion in full Conference on D or I.

# INDIAN ROUND TABLE CONFERENCE, 1932.

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## LIST OF DELEGATES.

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### BRITISH REPRESENTATIVES.

THE RIGHT HON. J. RAMSAY MACDONALD, M.P. (*Chairman of the Conference*).  
 THE RIGHT HON. VISCOUNT SANKEY, G.B.E. (*Deputy Chairman*).  
 THE RIGHT HON. SIR SAMUEL HOARE, BART., G.B.E., C.M.G., M.P.  
 THE RIGHT HON. VISCOUNT HAILSHAM.  
 THE RIGHT HON. SIR JOHN SIMON, G.C.S.I., K.C.V.O., O.B.E., K.C., M.P.  
 THE RIGHT HON. LORD IRWIN, K.G., G.C.S.I., G.C.I.E.  
 THE RIGHT HON. J. C. C. DAVIDSON, C.H., C.B., M.P.  
 MR. R. A. BUTLER, M.P.

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THE RIGHT HON. EARL PEEL, G.C.S.I., G.B.E.  
 THE RIGHT HON. EARL WINTERTON, M.P.  
 THE MOST HON. THE MARQUESS OF READING, G.C.B., G.C.S.I., G.C.I.E., G.C.V.O.  
 THE MOST HON. THE MARQUESS OF LOTHIAN, C.H.

### INDIAN STATES' REPRESENTATIVES.

RAJA OF SARILA (SMALL STATES).  
 RAI BAHADUR RAJA OUDH NARAIN BISARYA (BHOPAL).  
 RAO BAHADUR KRISHNAMA CHARI, C.I.E. (BARODA).  
 NAWAB LIAQAT HYAT-KHAN (PATIALA).  
 MR. WAJAHAT HUSSAIN, I.C.S. (KASHMIR).  
 NAWAB SIR MUHAMMAD AKBAR HYDARI (HYDERABAD AND REWA).  
 SIR MIRZA M. ISMAIL, C.I.E., O.B.E. (MYSORE).  
 SIR MANUBHAI N. MEHTA, C.S.I. (BIKANER).  
 RAO BAHADUR PANDIT SIR SUKHDEO PRASAD, C.I.E., O.B.E. (UDAIPUR, JAIPUR AND JODHPUR).  
 RAO SAHIB D. A. SURVE (KOLHAPUR).  
 MR. L. F. RUSHBROOK WILLIAMS, C.B.E. (NAWANAGAR).

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THE CHIEF OF JATH.

## BRITISH-INDIAN REPRESENTATIVES.

HIS HIGHNESS THE AGA KHAN, G.C.S.I., G.C.I.E., G.C.V.O.  
 DR. B. R. AMBEDKAR.  
 SIR HUBERT CARR.  
 PANDIT NANAK CHAND.  
 MR. A. H. GHUZZAVI.  
 LIEUTENANT-COLONEL SIR HENRY GIDNEY, I.M.S. (RETIRED).  
 KHAN BAHADUR HAFIZ HIDAYAT HUSAIN.  
 SIR MUHAMMAD IQBAL.  
 MR. M. R. JAYAKAR.  
 SIR COWASJI JEHangIR, K.C.I.E., O.B.E.  
 MR. N. M. JOSHI.  
 MR. N. C. KELKAR.  
 RAJA OF KHALLICOTE.  
 DIWAN BAHADUR RAMASWAMI MUDALIYAR.  
 BEGUM SHAH NAWAZ.  
 RAO BAHADUR SIR A. P. PATRO.  
 SIR TEJ BAHADUR SAREU, K.C.S.I.  
 DR. SHAFAT AHMAD KHAN.  
 SARDAR TARA SINGH.  
 SIR NRIPENDRA NATH SIRCAR.  
 SIR PURSHOTAMDAS THAKURDAS, C.I.E., M.B.E.  
 MR. ZAFRULLA KHAN.

## INDIAN STATES' DELEGATION STAFF.

MR. R. Z. ABBASY (KHAIRPUR).  
 SAHIBZADA MUMTAZ ALI KHAN OF MALERKOTLA.  
 RAI BAHADUR PANDIT AMAR NATH ATAL (JAIPUR).  
 LIEUTENANT-COLONEL SIR RICHARD CHENEVIX-TRENCH, C.I.E.,  
 O.B.E. (HYDERABAD).  
 MR. C. L. CORFIELD, M.C. (REWA).  
 MR. K. V. GODBOLE (PHALTAN).  
 MR. C. G. HERBERT (COCHIN).  
 MR. M. S. A. HYDARI, I.C.S. (HYDERABAD).  
 NAWAB MAHDI YAR JUNG (HYDERABAD).  
 PANDIT RAMACHANDRA KAK (KASHMIR).  
 YUVARAJ SHRI DIGVIJAYA SINHI OF LIMBDI (NAWANAGAR).  
 MIR MAQBUL MAHMOOD (PATIALA AND JHALAWAR).  
 MR. K. C. NEOGY, M.L.A.  
 MAJOR PANDE (ORCHHA).  
 MR. K. M. PANIKKAR (Secretary to His Highness the Chancellor of  
 the Chamber of Princes).  
 PANDIT P. N. PATHAK (SARILA).  
 SIR PRABHASHANKAR PATTANI, K.C.I.E. (BHAVNAGAR).  
 MR. G. P. PILLAI (TRAVANCORE).  
 MR. B. I. POWAR (KOLHAPUR).  
 MR. S. QURESHI (MYSORE).

INDIAN STATES' DELEGATION STAFF—*cont.*

MR. MADHAVA RAO (MYSORE).  
 MR. R. K. RANADIVE (BARODA).  
 MR. C. N. SEDDON (SANGLI).  
 MR. R. K. SORABJI (DATIA).  
 MR. J. W. YOUNG, O.B.E. (JODHPUR).  
 MR. B. H. ZAIDI (RAMPUR).

## BRITISH DELEGATION STAFF.

SIR JAMES M. DUNNETT, C.I.E., I.C.S.

*Secretaries.*

MR. V. DAWSON, C.I.E.  
 MR. P. J. PATRICK.

## BRITISH INDIAN DELEGATION STAFF.

*Secretaries.*

MR. A. LATIFI, C.I.E., O.B.E., I.C.S.  
 MR. B. RAMA RAU, C.I.E., I.C.S.

*Additional (Honorary).*

SAYED AMJAD ALI.

## SECRETARIAT-GENERAL.

*Secretary-General.*

MR. R. H. A. CARTER, C.B.

*Secretaries.*

MR. K. ANDERSON.  
 MR. S. N. ROY, C.I.E., I.C.S.  
 MR. C. F. V. WILLIAMS, I.C.S.

*Publicity Officers.*

MR. HUGH MACGREGOR.  
 MR. A. H. JOYCE.

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## INDIAN ROUND TABLE CONFERENCE.

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### HEAD A.

#### REPORT OF THE INDIAN FRANCHISE COMMITTEE. METHOD OF ELECTION TO AND SIZE OF THE TWO FEDERAL CHAMBERS.

The Franchise Sub-Committee of the First Round Table Conference recommended the establishment of an expert body to investigate the question of the Franchise, and a Franchise Committee, under the chairmanship of the Marquess of Lothian, was subsequently appointed by His Majesty's Government and reported in June, 1932. The Report of that Committee was before the Conference in its present session.

#### I.—PROVINCIAL LEGISLATURES.

##### *Method of Election.*

The principal methods of election to the Provincial Legislatures examined in the Report of the Franchise Committee were :—

- (a) Adult suffrage ;
- (b) Adult suffrage by a system of indirect voting ;
- (c) Such modifications of adult suffrage as the grant of adult suffrage within certain age limits ; adult suffrage for large towns ; household suffrage ; indirect election through local bodies ;
- (d) The combination of the direct and indirect systems of franchise ; and, finally,
- (e) The extension of the direct vote.

The Committee, after exhaustive examination pronounced in favour of the acceptance of the extension of the Franchise by the direct method, and after considerable discussion, in the course of which close attention was paid to the practicability and desirability of a system based on adult suffrage and to methods of indirect election, the general sense of the Conference proved definitely to favour acceptance of the Franchise Committee's proposals.

##### *Basis of the Provincial Franchise.*

The Conference agreed, with one dissentient,\* that the essential basis of the franchise should be the property qualification proposed

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\* Mr. Joshi considered that, if it was impossible to secure adoption of a wider basis for the franchise than that proposed, provision should be made for automatic periodical extensions.



by the Indian Franchise Committee in their Report, subject to such modifications of detail as might prove necessary.\*†

The Conference carefully considered the proposals of the Franchise Committee for an educational qualification. Some members were strongly in favour of its acceptance, mainly on the ground that education was a proper basis for the franchise and that unless there was an educational qualification, an important section well capable of exercising the vote would be disfranchised. Others welcomed the proposal, which they regarded as attractive; but attention was drawn first to the inadequacy of the evidence as to the numbers (possibly very small) which would be added to the electoral roll by the adoption of such a qualification and, secondly, to the serious practical difficulties involved not only in its application but in the question of the standard to be adopted. An important section of opinion was, moreover, not in favour of the proposal. The general sense of the Conference was that further detailed examination would be required before any general educational qualification for the franchise could be adopted.

### *The Women's Franchise.*

The Conference was unanimously in favour of accepting the proposals of the Franchise Committee that women should be enfranchised in respect of the same property qualification as that prescribed for men.

The Franchise Committee had further recommended the adoption in the case of women of a specially low educational qualification, viz., mere literacy. Some difference of opinion manifested itself on this subject. Certain members of the Conference were of opinion that "mere literacy" was too low a standard and that it would be preferable to substitute for it the upper primary standard. Attention was, however, drawn to the fact that the application of the upper primary standard would very substantially reduce the number of women likely to be enfranchised on the basis of an educational qualification, and the general feeling appeared to favour the adoption of the literacy in preference to the upper primary qualification. An important section of opinion in the Conference urged, however, that if any special educational qualification were adopted at all it should be the same for women as for men.

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\* Sir Henry Gidney drew attention to the fact that property qualifications alone would disfranchise a large proportion of Anglo-Indians and that the proposed educational qualification was a very important one from the point of view of the Anglo-Indian community.

† Pandit Nanak Chand stressed the importance of reducing the disparity in voting strength as between the agricultural and non-agricultural tribes in the Punjab, to which detailed reference has been made in paragraph 170 of the Report of the Franchise Committee.

A very general difference of opinion was felt as regards the proposal of the Franchise Committee that, subject to certain qualifications, the wives and widows over 21 of men qualified by property to vote for the existing provincial councils should be enfranchised. The objections taken to this proposal, which was recommended by the Franchise Committee as the only practical method of securing an adequate proportion of women on the electoral roll, were, *inter alia*, that it would enfranchise a large number of illiterate women; that women would as a rule vote in the same way as their husbands; and that its adoption might give rise to domestic and religious difficulties. The general opinion of the Conference was that the proposal was one which required further examination.

Considerable support was forthcoming for a suggestion that it might be possible to deal with the problem of enfranchising an adequate number of women by giving to the various Provinces some latitude to propose a method of enfranchisement of women in the light of local conditions, subject to a general injunction to aim at much the same ratio of men to women voters as had been recommended by the Franchise Committee—i.e.,  $4\frac{1}{2}$  to 1—a ratio which the Conference as a whole was disposed to regard as not unsuitable.

Reference should be made in this connection to a suggestion put forward that, with a view to reducing the strain on the administrative machine, the registration of all voters qualified in respect of education, and of women enfranchised in right of their husbands, should be on application by the potential voter only.

### *Depressed Classes.*

The Conference was of opinion that a special provision should be made to enfranchise a larger number of voters belonging to the Depressed Classes and that the standard to be aimed at should, as proposed by the Franchise Committee, be 10 per cent. of the Depressed Class population in each Province, such of the differential qualifications suggested by the Franchise Committee being adopted as might be necessary to secure this result in the light of the varying conditions in each Province.

It was agreed that the existing *military service qualification* should be maintained. One member of the Conference urged the desirability of extending the franchise to cover all members of the Territorial and Auxiliary Forces, and it was agreed that this point should be examined.

### *Special representation for Commerce in Provincial Legislatures.*

Certain Delegates urged that the recommendations of the Indian Franchise Committee in regard to special electorates for Commerce resulted in grave inequality of representation as between Indian

and European Commerce in several Provinces. It was pointed out on behalf of His Majesty's Government that examination of this question inevitably involved a reopening of the Communal decision. The matter was not further discussed, but certain Indian Delegates placed on record their objection to any connection of the question of commercial representation with the communal issue.

## II.—THE FEDERAL LEGISLATURE.

### *Federal Assembly.*

The Federal Structure Committee in paragraph 19 of their Third Report expressed the opinion that the selection of the British Indian representatives for the Lower Chamber of the Federal Assembly should be by direct election. This recommendation was supported by the Indian Franchise Committee. Considerable discussion took place in the Conference as to the relative merits of the direct as opposed to the indirect method of election. It was pointed out on behalf of His Majesty's Government that if direct election was regarded as inevitable, this should not be allowed to prejudice the question of the size of the federal legislature. The general sense of the Conference, in the light of the discussion was that the balance of advantage lay with the election of the British-Indian representatives in the Lower Chamber by the direct method.

### *Franchise qualifications for the British Indian electorate.*

The Conference after full consideration of the various alternatives open, and in particular of a suggestion made by one member that a wage-earning qualification should be introduced, accepted generally the proposal of the Franchise Committee that the franchise for the British Indian section of the future Federal Assembly shall be the existing franchise for the provincial legislative councils, except in the case of the Central Provinces, where it should be a franchise which would bring in double the existing electorate for the provincial council.

### *Educational qualification.*

As regards the educational qualification proposed by the Franchise Committee, opinion in the Conference generally was strongly in favour of the adoption as an educational qualification for men of the possession of the Matriculation or school-leaving certificate. An important section of opinion was, however, opposed to this proposal for the same reasons as in the case of the provincial legislatures.

The Conference was unable to agree as regards the adoption of an educational qualification for women voters for the Federal Assembly, the same arguments as were advanced for and against the proposal in the case of the provincial legislatures holding good, in their view, here also.

*Depressed Classes.*

The Franchise Committee stated that they were advised by the Census Commissioner that the addition to the qualifications prescribed for the general electorate for the new Federal Assembly of a qualification of mere literacy would result, in the case of the Depressed Classes, in an electorate of approximately 2 per cent. of their total population. In these circumstances they recommended the adoption of such a differential qualification. The Conference agreed to their proposals.

*Special Representation.**Women.*

With the reservation that the communal proportions should not thereby be disturbed, the Conference as a whole accepted the proposals of the Indian Franchise Committee for the special reservation of seats for women, to be filled by the election of one woman by each provincial legislative council. The women's representative in the Conference was, however, in favour of direct election by a special women's constituency in each province.

*Labour.*

The proposals of the Franchise Committee for special representation of Labour by the reservation of 8 seats in the Federal Assembly were accepted by the Conference. In some quarters it was felt that the number of seats proposed was inadequate, but it was pointed out that Labour would obtain additional representation through the Depressed Class seats in the general constituencies. It was suggested that the point might be further investigated in connection with the delimitation of constituencies.

The Muslim delegation in this connection recorded their anxiety that the number of special seats should be kept at a minimum.

*Commerce and Industry.*

The general sense of the Conference was in favour of the acceptance of the Franchise Committee's proposal that the representation of Commerce should be concentrated in the Assembly, and that four seats should be allocated to Indian and four to European commerce. The view was, however, expressed by some Indian delegates that those recommendations did not provide adequately for the needs of Indian commerce. They did not think that Indian commerce should be forced into the position of having to secure additional representation by seeking to influence the results of elections in the non-special constituencies, and they took exception to the connection of commercial representation with the communal question.

The representative of the European community stated that European commerce would not be satisfied with a smaller number of seats than that proposed by the Franchise Committee which represented the minimum with which they could hope to be able adequately to voice their views.

The Conference gave a sympathetic reception to a claim put forward for the retention of the seat at present filled in rotation by the Millowners Associations of Bombay and Ahmedabad, although the point was made that the grant of such special representation would make it difficult to resist claims from other industries similarly situated. Reference was also made to the importance of securing adequate representation for up-country industrial interests, and to the difficulties which might arise under the proposals of the Franchise Committee in providing for this.

#### *Landlords.*

The Franchise Committee were in favour of retention of special representation for landlords, but in its existing strength, and their view on this subject was accepted by the Conference.

#### *Federal Upper House.*

The Federal Structure Committee of the Round Table Conference recommended that the British Indian section of the Federal Upper House in the new Constitution should be elected by the provincial legislative councils by the single transferable vote. This recommendation was supported by the Indian Franchise Committee and was accepted by the Conference, but Muslim delegates reserved their judgment as regards the use of the single transferable vote until they knew what result the application of that system would have on the communal proportions in the whole House. Attention was also drawn to the importance of safeguarding the interests of the small minorities.

It was generally agreed that there should be no representation of special interests as such in the Upper Chamber.

### III.—SIZE OF FEDERAL LEGISLATURE.

A marked difference of opinion manifested itself on this subject in the Conference. There was substantial general agreement that some weightage should be accorded to the States; the proportions of seats to be filled by representatives of the Indian States previously proposed, viz.,  $33\frac{1}{2}$  per cent. in the Lower and 40 per cent. in the Upper Chamber still held the field, though the apprehension of the States lest by federating they would lose their individuality was mentioned as a ground for increasing their proportion in the Upper House to one of equality with British India. One of the States' representatives urged that at least 125 seats in the Upper House should be allotted to the States, and 36 per cent. of the seats secured to them in a joint session of both Houses. Provided

this number of seats in the Upper House and this percentage in a joint session was secured, there would be no objection in his view to a lower percentage than  $33\frac{1}{3}$  in the Lower House.

Muslim delegates and one or two others were opposed to the principle of weightage for the States in the Legislature; the Muslim delegates considered that if it was found inevitable to concede some weightage the quota of Muslim representation should be safeguarded so that the number of their seats from British India should not be less than they would have secured if the States enjoyed no weightage over population ratio.

Certain delegates urged the advantages of a large Lower House on the ground of the resultant reduction in the size of constituencies, the consequent lessening of expense to candidates, and the increased ease with which representation could be secured for the smaller States. A considerable section of the Conference supported the figure of 450 proposed by the Franchise Committee.

It was pointed out, on the other hand, that the Federal Legislature would have limited functions, for the discharge of which so large a Lower House as was recommended in the Lothian Report would not be necessary, and some delegates thought 300 would suffice. It was also pointed out that whatever decision was finally reached as to the size of the two Houses, grouping of the smaller States would be inevitable.

An alternative suggestion was put forward regarding the Upper House, namely that while the Lower House would fully reflect the popular element, the Upper House, as the peculiarly Federal organ of the Constitution, should provide for the representation of the constituent units as such. According to this proposal the Upper House would be limited to some 60 delegates of the Governments of the units and of the Federal Government.

No final decision proved possible in the Conference on this question. A suggestion made on behalf of His Majesty's Government, who intimated that general agreement on the subject between Indian delegates would carry great weight with them, that consideration should be postponed with a view to informal consultations between the Indian delegates in the hope of reaching a greater measure of agreement between the conflicting views expressed, was accepted by the Conference.

No modification of view has been reported as having resulted from such discussions as have taken place.

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## HEAD B (a).

LEGISLATIVE RELATIONS BETWEEN THE FEDERAL  
CENTRE AND THE UNITS.REPORT OF COMMITTEE ON THE DISTRIBUTION OF LEGISLATIVE  
POWERS.

The Committee was appointed—

“ (i) To test the general principles discussed under Head B(a) by applying them to the list of subjects suggested by the Federal Structure Committee in the appendix to its Second Report.

“ (ii) To re-examine in the light of the general discussion of principles the definition of those subjects and the effects of the recommendations made by the Federal Structure Committee in respect of them; and to make suggestions.”

and was constituted as follows :—

Lord Sankey (Chairman).

Sir Samuel Hoare.

Mr. Butler.

Lord Reading.

Sir Akbar Hydari.

Sir Manubhai Mehta.

Sir A. P. Patro.

Sir Tej Sapru.

Sir Nripendra Nath Sircar.

Mr. Zafrulla Khan.

The Committee found it convenient to deal first with the second head of their Terms of Reference, and accordingly addressed themselves at the outset to an examination of the definition of the subjects provisionally allocated between the Centre and the Provinces by the Appendices to the Second Report of the Federal Structure Committee, and to the further proposals made in the same connection by the Consultative Committee. Their deliberations on this matter satisfied them that the statutory delimitation of the spheres of competence of the Federal and Provincial Legislatures which the conceptions of provincial autonomy and federation inevitably involve will necessitate, whatever method of delimitation and allocation is adopted, a much more careful and scientific definition of each subject than was required for the purposes of the Schedules to the existing Devolution Rules upon which the Federal Structure Committee's lists were based. They are further satisfied that neither the Committee nor the Conference are competent to undertake this in the time at their disposal. The Committee hope, therefore, that His Majesty's Government will lose no time in beginning with expert assistance this laborious but important task.

2. In the course of their examination of this matter it was brought to the notice of the Committee by representatives of the States that in respect of some at all events of the subjects which had been classified by the Federal Structure Committee as " federal for policy and legislation " the States had not at the time intended to agree to the possession by the Federal Legislature of plenary powers of legislation in the States : in other words, they intend to cede to the Crown in respect of each of these subjects a field of legislative jurisdiction to be specified in the Act or Treaty and to retain the remainder themselves. The Committee are not in possession of full details, but, as an example, they observe that, in the case of the Federal subject of railways, the exponents of this view suggested that so far as its operation in the States is concerned, the scope of Federal legislation might have to be confined to matters connected with safety, maximum and minimum rates and the interchangeability of traffic, that outside this limited range, the individual States' Governments should have independent and exclusive jurisdiction, and that for securing compliance with its desires in railway matters not covered by the above heads the Federal Government should rely upon negotiation and agreement. Acceptance of this arrangement appears to involve, as a necessary consequence, variations of competence in relation to the States and the Provinces respectively, of the Federal Legislature.

3. Turning to the first head of their Terms of Reference, the Committee endeavoured to assess in the light that had been thrown upon it by their detailed examination of subjects, the general requirements of a workable general plan of distribution of powers. They suggest to the Conference that any such plan must necessarily involve, as the first desideratum, a carefully drawn list of subjects upon which the Federal Legislature is to possess exclusive legislative powers. Two alternative methods present themselves of distinguishing between those of the " exclusive " subjects which are to be Federal and those which are to be British Indian. The first method would be so to classify them in the Act itself (or in a Schedule attached to the Act) as to make a statutory distinction between Federal and British Indian subjects. The second method would be to enumerate them all in the Act as matters on which the Federal Legislature has exclusive jurisdiction, leaving it to the States in their acceding Instruments to specify those of them which, in the States, are to be outside the range of Federal competence. The Committee recommend the adoption of the second alternative, but they agree with the view of States' representatives that even so it would be advantageous that the list should be divided into two Parts, of which Part I would include only those subjects in respect of which, generally speaking, the States may be expected to cede the necessary jurisdiction for the purpose of constituting them Federal subjects. Such a sub-division would greatly facilitate the



drafting of the States' Instruments of Accession. The second alternative would also have the advantage that it would afford an easy means, either to the States generally, or to individual States in course of time, if they should so desire, to accept as operative in the States legislation upon subjects which by their original Treaty had been excepted.

4. The field of exclusive jurisdiction to be assigned to the Provinces would or would not require detailed definition by a similar schedule of subjects, according as it is decided that "residual powers" are to be assigned to the Centre or to the Provinces. In the latter event there would be no need to enumerate the Provincial subjects; they could be defined as all matters other than those assigned to the Centre. The advantages which would follow from the existence of only one list are very great, and the Committee do not disguise from themselves the risks which must attend the existence of two lists each within the exclusive competence of a particular legislature and neither containing "residuary powers." A law passed by one legislature must then fulfil two conditions before it is valid: not only must its subject-matter fall within the competence of that legislature, but every part of the law must also be demonstrably excluded from the competence of the other. The risk of litigation on questions of *ultra vires* must in that case be greatly increased. But since there was disagreement as to the allocation of "residual powers" exclusively to the Centre or to the Provinces, the sub-Committee assume, for the purpose of this Report, the existence of an exclusively Provincial list.

5. The Committee are satisfied that it is not humanly possible so to define and separate all subjects of potential legislation as to secure that every conceivable subject will fall within the *exclusive* jurisdiction of either the Centre or of the Provinces. Moreover, even if this were possible, the allocation of every subject to the exclusive jurisdiction of either Centre or Provinces would seem to involve the loss of uniformity in directions where uniformity is desirable, or else an undue curtailment of flexibility and of Provincial initiative—or, more probably a combination of both disadvantages. The Committee therefore consider that practical requirements will in any event necessitate a field in which both Centre and Provinces should have legislative jurisdiction. The Committee consider that the problem could be dealt with with sufficient precision by constituting a common field to which would be assigned matters upon which uniformity of law is or may be desirable and by assigning to both Centre and Provinces the power, but not the exclusive power, to legislate upon any subject included in it; but some method must at the same time be devised whereby administrative powers and functions which properly belong to the Provinces in respect of these subjects are secured exclusively to them.

6. The existence of concurrent powers will necessitate provisions for resolving a conflict of laws in any Province to which a Central Act regulating a "concurrent" subject is in force alongside a Provincial Act which is repugnant to it. The Committee suggest that the general rule in this matter must necessarily be that in that case the Central Act will prevail. But such a rule, if unqualified, would obviously tend in theory at all events to enable the Centre in course of time to usurp the whole concurrent field. The Committee therefore suggest that if a Provincial Act relating to any matter in the concurrent field is reserved for, and receives, the Governor-General's assent, it shall prevail in the Province over any Central Act to which it is repugnant. This rule itself will, however, require some qualification; otherwise it might operate to enable the Governor-General permanently to curtail the concurrent jurisdiction of the Federal Legislature. It should therefore be provided that the validity of a Provincial Act in the circumstances indicated shall be without prejudice to the power of the Federal Legislature to legislate subsequently in a contrary sense, but that the exercise of this power shall be subject to the previous assent of the Governor-General.

7. As regards the allocation of "residual powers"—i.e. the right to legislate on matters not included in any of the three lists—the Committee would hope that if the lists are drawn in sufficient detail, the undefined or unforeseen residue will not prove to be extensive. But such cases will inevitably arise and suitable provision must be made to meet them. It was suggested that provision might be made whereby the Governor-General would be given power to decide in any given case which was the appropriate forum for legislation on an unallocated subject, and whether a measure relating to that subject should be introduced in the Federal or Provincial Legislature. This suggestion found favour with some members of the Committee, as a compromise between the divided opinions on the ultimate allocation exclusively to Centre or Provinces of residuary powers, but was not acceptable to others. In these circumstances the Committee regret that they are unable to make any definite recommendation on this subject.

8. The attention of the Committee was drawn to the desirability of including in the Act some provision enabling the Federal Legislature, at the request and with the consent of two or more Provinces, to enact for those Provinces alone legislation which would not otherwise be within its competence. The Committee agree that provision should be made for this purpose, provided that the position of the Provinces is safeguarded by ensuring that such legislation should not result in withdrawing permanently any subject from the legislative competence of the provincial Legislatures, and that the Federal Law keeps strictly within the authority conferred on the Federal Legislature by the terms of the request.

9. The Committee wish to add that it will, in their opinion, be necessary also to deal with the competence of the Federal and Provincial legislatures respectively to repeal or amend existing legislation. In the time at their disposal they have not been able to suggest a suitable machinery for this purpose, but the matter is one of great practical importance and they commend it for examination by His Majesty's Government.

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#### SUMMARY OF CONFERENCE DISCUSSION ON HEAD B (a).

The Conference noted the Report of the Committee on the Distribution of Legislative Powers after the following points had been raised :—

(1) *Mr. Joshi* complained that no progress had been made by the Committee. After the subject had been discussed for two years this Committee suggested a further examination, without even indicating what kind of examination was in view.

(2) *Mr. Zafrulla Khan* urged, with reference to item 6 of the Schedule of "Provincial Subjects, subject to legislation by the Indian Legislature," that the words "light and feeder" should be omitted therefrom, so that Provincial Governments may have the legal competence to construct any kind of railway, whether light or feeder or otherwise, subject to compliance with the technical standards laid down by a central authority and subject to the proposed line not competing with existing Federal lines.

(3) *Mr. Zafrulla Khan* urged that there should be as few centrally administered areas as possible; with the exception of Delhi, efforts should be made to bring such areas within some Province or other.

(4) *Mr. Zafrulla Khan* said that consideration should be given to the constitutional future of Baluchistan; it should be possible to weld British Baluchistan, Kalat, and Las Bela in some kind of federal union and so form a unit which might become a unit of the Federation.

(5) *Mr. Rushbrooke Williams* dealing with the suggestion in the Report that certain States might in future desire to accept as operative legislation upon subjects which by their original Treaty had been excepted, entered a caveat to safeguard the position of other States not accepting such legislation, in the event of the legislation itself being sufficiently important to effect a change in the Constitution.

(6) Some discussion arose as to whether the previous assent of the Governor-General, referred to in the last sentence of paragraph 6 of the Report, should be dependent upon the advice of the Ministry.

*Mr. Jayakar* held that it should be so dependent; otherwise it would create an exception to the principle of the supremacy of the Legislature in the normal field (i.e., outside the sphere of special responsibilities and safeguards). In reply it was explained that the object was to provide for an impartial decision in the event of conflict between the Federal and a Provincial Legislature; a Federal Ministry however well meaning could hardly be expected to give an unbiased opinion in such a conflict. General agreement was eventually reached by substituting the word "conflicting" for the word "contrary" appearing in the last sentence of paragraph 6.

(7) *Sir Tej Sapru* referring to paragraph 7 of the Report on the question of Residuary Powers, said that his group considered that it was most desirable that unforeseen emergencies should fall to be dealt with by the Federal Government, and assured the Conference that residuary powers, if allotted to the Centre, would not be used as a means of interfering with Provincial Autonomy. He and his group were prepared to accept the compromise that had been suggested, but if the other side found it unacceptable then he must adhere to his original position that residuary powers should be allotted to the Centre. He asked whether the Secretary of State for India could give the Government's view on the matter to the Conference.

*The Secretary of State for India* was unable to make a final pronouncement at that stage, but stated that the Government were fully alive to the great cleavage of opinion on the subject, although inclined to think that a careful and exhaustive allocation of legislative powers would make the matter of less practical importance than it had assumed. He was much attracted by the compromise that had been suggested and if the two sides were eventually unable to reach agreement the Government would consider this compromise most sympathetically.

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## HEAD B (b).

ADMINISTRATIVE RELATIONS BETWEEN THE  
FEDERAL CENTRE AND THE UNITS.ADMINISTRATIVE RELATIONS BETWEEN THE FEDERAL GOVERNMENT  
AND THE PROVINCES.

1. It was generally agreed that the relationship between the Federal Government and the Provinces should not be so defined, in connection with the separation of powers, as to involve a necessary breach with the traditional methods and machinery of Indian administration, whereby the Central Government has habitually employed as the agency for administering a large part of its functions the ordinary provincial administrative staffs. No doubt the tendency which has shown itself of recent years, even under the existing constitution, towards employment by the Central Government of separate agencies of its own for the administration of certain of its functions will be accentuated by departure from the unitary system; but considerations of financial and practical convenience are opposed to any immediate and necessary adoption of this system as the consequence of the statutory division of powers and functions between the Centre and the Provinces which is involved in Federation. The legal and constitutional relations between the Federation and the Provinces should therefore be so defined as to place no obstacles in the way of the devolution by the Federal Government and Legislature upon Provincial Governments, or upon any specified officers of those Governments, of the exercise on its behalf of any functions in relation to the administration in the Provinces of any Federal or Central subject, wherever such an arrangement is found to be financially or administratively convenient.

2. It is clear, however, that the possession of such powers by the Federation will be liable to involve Provincial Governments in increased expenditure upon staff. It would clearly be unreasonable if every imposition of powers or duties upon Provincial Governments or their officers by a Federal enactment were to be regarded as necessarily involving a financial subsidy. The rule should therefore be that if the enactment of a Federal Act involves employment by the Province of *additional* staff, the Federation should bear the cost of that staff if it is employed exclusively on the administration of a Federal or Central subject, and the cost should be shared between the Federation and that Province if the additional staff is so employed only in part. In most cases; questions of the proportions in which such charges are to be borne should prove capable of adjustment by mutual agreement; in case, however, of disagreement, suitable provision should be made for an arbitral decision.

3. It was generally agreed that the Constitution should endow the Federal Government with specific authority to ensure that Provincial Governments give due effect to Federal legislation in so far as this depends upon their own administrative agencies; it was felt in some quarters that Federal authority should extend, in the interests of the efficient performance of the functions entrusted to it, to ensuring that Provincial Governments so administer their own provincial subjects as not to affect prejudicially the administration of any Federal or Central subjects. As against this it was suggested in the course of discussion of this latter point that if the Federal Government is to possess this power there should be a reciprocal power in the hands of Provincial Governments to ensure that Federal subjects are not so administered by the Federation as prejudicially to affect the administration of provincial subjects. No doubt any Provincial Government which considered that the action or policy of the Federal Government gave ground for legitimate complaint upon this score would lose no time in bringing its attitude to the attention of the Federal Government, either through its representatives in the Federal Legislature or by correspondence.

4. There was difference of opinion as to the extent—if at all—to which the Federation should be authorised to exercise control over the administration of provincial subjects when no question arises of reactions upon a Federal or Central subject. It was, however, generally agreed :—

(a) that the scope for intervention by the Centre in the administration of provincial subjects should be strictly confined to questions involving the matters compendiously described as “law and order”;

(b) that powers of intervention for this limited purpose should be vested in the Governor-General personally and not in the Federal Government as such; in other words, that the power should be exercisable by the Governor-General “at his discretion” as explained in paragraph 10 of the Report on Head C;

(c) that even so the Governor-General’s intervention (which he would naturally exercise through the Governor) should be defined in appropriate terms as being exercisable only for the purpose of preventing the occurrence of conditions which might endanger the internal security of India.

It was generally recognised as the basis of these conclusions that the transfer of the control of “law and order” in the provinces cannot, in the interests of the country as a whole, be treated as involving the position that every province is to be entirely independent and uncontrolled in the administration of law and order, but that at the same time the necessary powers of control and co-ordination must be so framed as, on the one hand, not to enable,

or have the appearance of enabling, a constant external interference with the day-to-day administration of provincial affairs, and, on the other hand, not to be so restricted as to be incapable of exercise at all until a serious breakdown of law and order has actually occurred. The conclusion recorded in clause (c) above is designed to meet this twofold purpose.

#### ADMINISTRATIVE RELATIONS WITH THE STATES IN FEDERAL MATTERS.

5. It was recognised that the relationship of the Federal Government with the States cannot be in all respects identical with that which will obtain with the Provinces. It was agreed that the Constitution should impose upon the States' Governments an obligation to exercise their executive power and authority, so far as they are necessary and applicable, for the purpose of securing that due effect is given within their territories to every Act of the Federal Legislature which applies to that territory. It was further agreed that the Constitution should recognise arrangements (which would, in fact, be made in suitable cases through the Instrument of Accession) for the administration by the States on behalf of the Federal Government of Federal subjects through the agency of staff and establishments employed and controlled by themselves, but that any such arrangements should be subject to conditions to be expressed in the Constitution enabling the Governor-General to satisfy himself by inspection, or otherwise, that an adequate standard of administration is maintained. Finally, it was agreed that power should vest in the Governor-General personally to issue general instructions to the States' Governments for the purpose of ensuring that their obligations to the Federal Government specified in this paragraph are duly fulfilled.

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## HEAD C.

## SPECIAL POWERS AND RESPONSIBILITIES OF THE GOVERNOR-GENERAL AND GOVERNORS.

1. The Conference approached the problems presented by this head from the standpoint of the following assumptions as to the form of the constitutional structure :—

(a) that the Act will declare that executive power and authority (as in the United Kingdom and the Dominions) vests in the Crown, represented in the Federation by the Governor-General and in the Provinces by the Governors; but

(b) that nevertheless, except in so far as is otherwise provided (whether such provision be in the Act or in the Instrument of Instructions), the Governor-General and Governors will be guided by the advice of their respective Ministers, and the Executive will depend for its legislative enactments and for its Supply upon the concurrence in its proposals of the Legislature.

2. Approached from this standpoint and from that of a unanimous acceptance of the general principles enunciated in paragraph 11 of the Second Report of the Federal Structure Committee, the questions for consideration under this head were found to resolve themselves into examination in greater detail than had been necessary or possible at previous Conferences of the exact nature and scope of the responsibilities to be imposed upon the Governor-General and Governors, and of the special powers which are to flow from these responsibilities in order that the latter may be effectively fulfilled. The detailed conclusions at which the Conference has arrived under this head of the inquiry can best be described, therefore, under the general headings of the Governor-General's relations with his Ministers and with his Legislature respectively. The same general principle will apply to the Governors also, with the modifications of detail to be explained later.

## A.—GOVERNOR-GENERAL'S RELATIONS WITH HIS MINISTERS.

3. In certain matters Ministers will not be entitled to tender advice to the Governor-General at all; these matters, namely, the Reserved Departments, will be administered by the Governor-General upon his sole responsibility. But it would be impossible, in practice, for the Governor-General to conduct the affairs of these departments in isolation from the other activities of his Government, and undesirable that he should attempt to do so, even if it were, in fact, possible. A prudent Governor-General would keep his Ministers and the advisers whom he has selected to assist him in the Reserved Departments in the closest contact; and, without blurring the line which will necessarily divide on the one hand his



personal responsibility for the Reserved Departments and, on the other hand, the responsibility of Ministers to the Legislature for the matters entrusted to their charge, he would so arrange the conduct of executive business that he himself, his personal advisers in the Reserved Departments, and his responsible Ministers, are given the fullest opportunity of mutual consultation and discussion of all matters—and there will necessarily be many such—which call for co-ordination of policy. The hope was expressed that His Majesty's Government would be prepared to consider the embodiment of this principle in appropriate terms in the Governor-General's Instrument of Instructions, though it was recognised at the same time that the Instrument of Instructions must make it clear, without ambiguity, that whatever consultation between the Governor-General and his responsible Ministers may take place upon matters arising in the Reserved Departments, the responsibility for the decisions taken is the Governor-General's and the Governor-General's alone.

Some further conclusions bearing upon this matter will be found in the Report dealing with Defence expenditure.

4. As regards the actual Departments to be classed as Reserved, it will be necessary to add the Ecclesiastical Department to the Departments of Defence and External Affairs in the reserved category. This agreement was based upon the understanding that an endeavour will be made to alter the existing classification of Ecclesiastical expenditure so as to bring under the head of Defence all such expenditure upon the provision of Churches and Chaplains as is required primarily for the needs of the British Army, and that the general policy will be to arrive as soon as may be at the position that the provision of such Churches and ministrations as are not required for this purpose is confined to the needs of the European members of the Services. The separate Ecclesiastical Department would thus, probably, be confined to the regulation of civilian requirements. In any case, the Conference was given to understand that pending the completion of this policy, Ecclesiastical expenditure would not exceed the present scale.

5. In the course of discussion it was suggested by some delegates that it might be possible to define with precision the matters which were to be treated as falling within the Departments of Defence and External Affairs, and by so doing to leave to the charge of responsible Ministers certain spheres of activity which might otherwise be regarded as covered by those terms. There was, however, substantial support for the view that such a course would be undesirable in the case of Defence and unnecessary in the case of External Affairs. In the former case such an attempt would inevitably be found to involve a division of responsibility and control in a field where such division would be fatal to efficiency. This Department

must, therefore, include all matters directly involving military requirements. In the case of External Affairs, while the primary ambit of the Department would be matters involving relations with foreign countries, many subjects which involve such relations (e.g. the multifarious questions which might be involved by commercial treaties) would necessarily be dealt with, and discussed, by the Ministers responsible for those subjects in the domestic sphere, by whose advice the Governor-General would be guided except in so far as he felt that his personal responsibility for the general subject of External Affairs made it incumbent upon him to act otherwise than in accordance with the advice tendered. The conclusions of the Conference upon this matter will become clearer in the light of its conclusions as explained in paragraphs 7 to 9 below: but the main point which requires emphasis in the present connexion is the fact that a matter which, in the domestic sphere, is in charge of a Minister will not necessarily be removed from his province and included for the time being in the Reserved portfolio of External Affairs merely by reason of the fact that that matter happens to become the subject of international negotiations.

6. A different problem presents itself in regard to the Governor-General's relations with his Ministers outside the ambit of the Reserved Departments—i.e. in the Departments which will be entrusted to the charge of Ministers responsible for the conduct of their administration of them to the Legislature. In this sphere Ministers will have a constitutional right to tender advice, and the Governor-General will, except to the extent and in the circumstances explained below, be guided by that advice. The problem is so to define the circumstances in which he will be entitled to act otherwise than in accordance with his Ministers' advice. The Conference, after examining various alternatives, was unanimous in agreeing that the most satisfactory course will be:—

(a) The enactment of provision in the Constitution that the Governor-General has a "special responsibility" not for spheres of administration, but for certain clearly indicated general purposes, and that for securing these purposes he is to exercise the powers conferred upon him by the Act in accordance with directions contained in his Instrument of Instructions; and

(b) The insertion in the Instrument of Instructions *inter alia* of a direction to the effect that the Governor-General is to be guided by his Ministers' advice unless so to be guided would, in his judgment, be inconsistent with a "special responsibility" imposed upon him by the Act, in which case he is to act, notwithstanding his Ministers' advice, in such manner as he judges requisite for the due fulfilment of his special responsibility.

It will be apparent from this conclusion that the Instrument of Instructions will assume a position of great importance as an ancillary to the Constitution Act.

7. It remains to indicate the matters or purposes in respect of which the Governor-General should be declared, in accordance with the proposals in the preceding paragraph, to have a special responsibility in relation to the operations of the Federal Government. It was generally agreed that they should be the following\* :—

- (i) the prevention of grave menace to the peace or tranquillity of India or of any part thereof;
- (ii) the protection of minorities;
- (iii) the preservation of the rights of the public services;
- (iv) matters affecting the administration of the Reserved Departments;
- (v) the protection of the rights of the States;
- †(vi) the prevention of commercial discrimination.

The actual terms in which the several items should be expressed formed the subject of some discussion,‡ but it should be made clear in the first place with regard to the list that the actual wording of the items does not purport to be expressed here with the precision, or in the form, which a draftsman, when the stage comes for drawing a Bill, would necessarily find appropriate; but the list expresses with sufficient clarity for present purposes the intentions underlying the conclusions of the Conference on this point. The necessity of the first three items was accepted with a unanimity which makes further elucidation unnecessary—indeed they follow as a matter of course from recommendations made at previous Conferences. With regard to (iv) it is apparent that if, for example, the Governor-General were to be free to follow his own judgment in relation to the conduct of Defence policy only in regard to matters falling strictly within the ambit of the department of Defence, he might find that proposals made in another department in charge of a responsible Minister are in direct conflict with the line of policy he regards as essential for purposes connected with Defence, and consequently that the fulfilment of his responsibilities for the department of Defence would be gravely impaired

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\* An addition to this list is discussed in the Report of the Financial Safeguards Committee.

† See report of Commercial Safeguards Committee.

‡ For example, Mr. Zafrulla Khan proposed for the wording of (ii) "The avoidance of prejudice to the interests of any section of the population" (vide paragraph 16 of Second Report of Federal Structure Committee); he also proposed—and Sir Tej Saprú supported the suggestion—to retain for (v) the words used in the same passage of that Report viz: "To secure to the members of the Public Services any rights guaranteed to them by the Constitution".

if he accepted the advice of the Minister responsible for the charge of the other department in question: if, therefore, such a situation is to be avoided, it seems to be impossible to secure the object in view otherwise than by expressing the Governor-General's "special responsibility" in some such terms as those indicated in item (iv). As regards item (v), it should be explained that this is not intended to give the Governor-General any special powers *vis-a-vis* the States in relation to matters arising in the Federal sphere proper; the necessary powers having been transferred by the States in their Treaties, such matters will be regulated in accordance with the normal provisions of the Act. Nor is it intended that the inclusion of this item should be regarded as having any bearing on the direct relations between the Crown and the States. Those will be matters for which the Constitution will make no provision and which will fall to be dealt with by a Viceroy representing the Crown, who will, it may be assumed, be the Governor-General in a capacity independent of the Federal organ. It may be, however, that measures are proposed by the Federal Government, acting within its constitutional rights in relation to a Federal subject, or in relation to a "Central" subject not directly affecting the States at all, which, if pursued to a conclusion, would affect prejudicially rights of a State in relation to which that State had transferred no jurisdiction. Or, again, policies might be proposed or events arise in a province which would tend to prejudice the rights of a neighbouring State. In such cases it seems evident that it must be open to the Crown, through the Governor-General or the Governor, as the case may be, to ensure that the particular course of action is so modified as to maintain the integrity of rights secured to the State by Treaty.

8. In addition to the items specified at the beginning of the preceding paragraph, the addition was suggested of a "special responsibility" for "the maintenance of good relations with other parts of the Empire." In support of this suggestion it was urged that some power ought to vest in the Governor-General to intervene in situations where the policy advocated by his Ministers was likely to end in serious detriment to Imperial solidarity. On the other hand it was agreed that the existence of such a power in the hands of the Governor-General, with no corresponding power at the disposal of Dominion Governors-General, would tend to place India at a disadvantage in inter-Imperial affairs and would raise grave suspicions in the minds of the Indian public as to the uses to which it would be put: those who held this view pointed out that the Governor-General would in any case be in a position to refuse his assent to legislative measures which he considered likely to give rise to justifiable resentment in the Dominions, and that no additional safeguard for this purpose was either necessary or desirable. The general conclusion of the Conference was in this sense.

9. The range of the Governor-General's special responsibilities having been thus indicated, it is desirable to explain somewhat fully the precise effects which were contemplated as the results of the proposals contained in the three preceding paragraphs. In the first place it should be made clear that unless and until the Governor-General feels called upon to differ from his Ministers in fulfilment of a "special responsibility," the responsibility of Ministers for the matters committed to their charge remains unfettered and complete. To take a concrete instance, it will clearly be the duty of Ministers, rather than of the Governor-General himself, to ensure that the administration of their departments is so conducted that minorities are not subjected to unfair or prejudicial treatment. The intention of attributing to the Governor-General a special responsibility for the protection of minorities is to enable him, in any case where he regards the proposals of the Minister in charge of a department as likely to be unfair or prejudicial to a particular minority, in the last resort to inform the Minister concerned (or possibly the Ministers as a body, if they generally support the proposals of their colleague), that he will be unable to accept the advice tendered to him. Nor is it contemplated that the Governor-General, having been vested with "special responsibilities" of the kind indicated, will either wish, or find it necessary, to be constantly overruling his Ministers' proposals. The discussions of the Conference have proceeded on the basic assumption that every endeavour will be made by those responsible for working the Constitution now under consideration to approach the administrative problems which will present themselves in the spirit of partners in a common enterprise. In the great bulk of cases, therefore, in day to day administration, where questions might arise affecting the Governor-General's "special responsibilities" mutual consultation should result in agreement, so that no question would arise of bringing the Governor-General's special responsibilities into play.

10. Apart from the Reserved Departments, and the specified "special responsibilities" of the Governor-General outside the sphere of those Departments, there is a third category of matters in which the Governor-General must be free to act on his own initiative and consequently must not be under any constitutional obligation to seek, or, having sought, to follow, Ministerial advice. For this purpose certain specified powers would be conferred by the Constitution on the Governor-General and would be expressed as being exercisable "at his discretion." In this category of "discretionary powers," the precise range of which it will be impossible exhaustively to foresee until the drafting of the proposed Constitution has reached completion, it was agreed that the following matters should be included :—

- (a) The power to dissolve, prorogue and summon the Legislature;

(b) The power to assent to, or withhold assent from, Acts, or to reserve Acts for the signification of His Majesty's pleasure ;

(c) The grant of previous sanction to the introduction of certain classes of legislative measures ;

(d) The power to summon a joint Session of the Legislature in cases of emergency, where observance of the ordinary time limit which, it was assumed, would be prescribed by the Constitution would produce serious consequences.

It follows further as a matter of logic from the foregoing proposals that the special powers to be conferred on the Governor-General for the purpose of enabling him to fulfil his responsibilities must be similarly exercisable "at his discretion." To the foregoing must, therefore, be added—

(e) The power to take action, notwithstanding an adverse vote in the Legislature—to be dealt with more fully below ;

(f) The power to arrest the course of discussion of measures in the Legislature—also dealt with below ;

(g) The power to make rules of legislative business in so far as these are required to provide for the due exercise of his own powers and responsibilities.

## B.—GOVERNOR-GENERAL'S RELATIONS WITH THE LEGISLATURE.

11. It is not sufficient, however, merely to regulate the Governor-General's relations with his responsible Ministers, i.e., to regulate matters arising in discussion amongst the members of the executive Government. It follows from the recommendations of the Federal Structure Committee, upon which these proposals are based, that the Governor-General must be given powers which will enable him effectively to fulfil the responsibilities entrusted to him, whether his responsibilities for the Reserved Departments or the "special responsibilities" indicated above, if their fulfilment involves action normally lying within the functions of the Legislature to which the Legislature will not agree. The general scheme underlying the proposals is that, wherever the Governor-General's responsibilities for the Reserved Departments, or his "special responsibilities," are involved, he should be empowered not only, as has already been explained, to act without, or, as the case may be, contrary to, the advice of his Ministers, but also to counteract an adverse vote of the Legislature, whether such a vote relates to the passage of legislation or to the appropriation of funds. It was unanimously agreed that the Governor-General must, in some appropriate manner, be granted the necessary powers for this purpose, and that the exercise of these special powers should be expressed in the Act as being restricted to the fulfilment of these responsibilities. There was some difference of opinion, however, as to the precise form which these powers should be expressed as

taking. It was suggested that provisions in any way closely analogous to the existing "certification" sections of the Government of India Act, namely, s. 67B, which enables the Governor-General to secure affirmative legislation, and s. 67A (7), which enables him to "restore" rejected or reduced Demands for Grants, would be inappropriate under the Constitution now contemplated, and that the necessary powers should be so expressed as to involve not an overriding of the Legislature but action taken by the Governor-General independently of the Legislature on his own initiative and responsibility. On the other hand the view was taken that it would be unfortunate if the Governor-General's power to secure legislative enactments otherwise than by the normal process of the assent of the Legislature were so framed as to exclude any right on the part of the Legislature to discuss the terms of such a measure before it was enacted, and that the objection to a procedure analogous in form to the provisions of s. 67B or s. 67A (7) would be substantially met if the new Constitution were to make it clear that such a measure, when enacted, is described in terms as a "Governor-General's Act," and does not purport to be an Act of the Legislature, and that votable supply which is, in fact, obtained otherwise than with the consent of the Legislature does not purport to have received such assent.

Notwithstanding this difference as to method, there was a general feeling in favour of the provision of powers of this character for use in fulfilment by the Governor-General of his responsibilities for the Reserved Departments and of his "special responsibilities," on the understanding that care would be taken in framing the Bill to make it clear that their exercise was the outcome of the Governor-General's own initiative and responsibility and would in no way compromise either the position of his Ministers in their relationship with the Legislature or the position of the Legislature itself.

12. It was also agreed that for the same purpose it would be necessary to place at the disposal of the Governor-General powers analogous to the Ordinance-making powers to meet temporary emergencies contained in s. 72 of the existing Act. Indeed, in addition to such a power to be placed at the disposal of the Governor-General "at his discretion" for the express purpose of fulfilling his responsibilities for a Reserved Department, or for carrying out a "special responsibility," there was general agreement that a similar power should be placed at the disposal of the Governor-General acting on his Ministers' advice, i.e., at the disposal of the Federal Government, to meet cases of emergency when the Legislature is not in session, the Ordinances resulting therefrom being limited in duration to a specified period, and their continuation beyond that period being made dependent upon subsequent ratification by the Legislature.

13. Finally, the Conference was agreed that the Constitution should contain provision requiring the previous sanction of the Governor-General, acting "in his discretion," to the introduction of any Bill affecting a Reserved Department, or religion, or religious rites and usages,\* or any Bill repealing, amending or affecting any Act or Ordinance of the Governor-General, enacted in fulfilment of his personal responsibilities,† and, in addition to this requirement, that the Governor-General should be empowered on the lines of the provisions of s. 67 (2A) of the existing Act, to prevent the discussion, or further discussion, of any measure the mere discussion of which, in his judgment, is liable to involve grave menace to peace and tranquillity.

14. It is perhaps desirable to summarise very briefly the essence and effect of these proposals. The intention is that the special powers of the Governor-General properly so described, namely his power to obtain legislation and supply without the assent of the Legislature, will flow from the responsibilities specifically imposed upon him and be exercisable only for the purpose of enabling those responsibilities to be implemented. The responsibilities to be imposed on the Governor-General by the Constitution should be of two kinds—an exclusive responsibility for the administration of the Reserved Departments, and a "special responsibility" for certain defined purposes outside the range of the Reserved Departments. On the administration of the Reserved Departments Ministers will have no constitutional right to tender advice, though, in practice, they will necessarily be consulted; nor will they have any such right to tender advice on the exercise of any powers conferred upon the Governor-General for use "in his discretion." On all other matters Ministers will be constitutionally entitled to tender advice, and unless that advice is felt by the Governor-General to be in conflict with one of his special responsibilities he will be guided by it. If, in fulfilment of his responsibility for a Reserved Department, or of a special responsibility, the Governor-General decides that a legislative measure or Supply to which the Legislature will not assent is essential, his special powers will enable him to secure the enactment of the measure or the provision of the Supply in question, but Ministers will not have any constitutional responsibility for his decision.

#### C.—GOVERNORS' SPECIAL POWERS AND RESPONSIBILITIES.

15. As indicated in paragraph 2 of this Report, the scheme for the Governor-General's responsibilities and powers described above will be applicable in all respects to the Governor in relation to his

\* The opinion was expressed in this connexion that the Governor-General's powers for this purpose should not be so framed as to hamper freedom in social reform.

† See also Financial Safeguards section.



Ministers and Legislature, with the following modifications of detail. In the Provinces there will be no category exactly corresponding to the Reserved Departments of the Governor-General, though it may be found necessary to make arrangements somewhat analogous to those involved in reservation in order to provide for the administration of those areas in certain Provinces which, from the primitive nature of their populations and their general characteristics, will have to be excluded from the normal operation of the Constitution. With this exception, therefore, the Governors' special powers will flow from, and be expressed as being required in order to enable them to fulfil, their "special responsibilities" only.

16. As regards the "special responsibilities" of the Governors\*, these should be identical with those indicated in the case of the Governor-General, save that the first item on the list would necessarily be confined in scope to the Province, or any part thereof, and not extend, as in the case of the Governor-General, to India as a whole. But in the case of the Governors, it would be necessary to add to the list of "special responsibilities" an item relating to the execution of orders passed by the Governor-General. If the Governor-General is to be charged, as will be explained later, with the general superintendence of the actions of Governors in the exercise of their "special responsibilities," and if, as has already been proposed, he is himself to have imposed upon him a "special responsibility" for the prevention of grave menace to peace and tranquillity throughout the country, it follows that he must be in a position to ensure that his instructions to a provincial Governor are acted upon; and consequently that the Governor must be in a position to act otherwise than on his Ministers' advice, if such advice conflicts with the Governor-General's instructions. Finally, it may be necessary to impose upon the Governor a "special responsibility" for the administration of certain excluded areas, if, as seems probable, the arrangements for the administration of excluded areas involve their classification into two categories, one of which would be placed under the exclusive control of the Governor and the other made subject to Ministerial control, but with an overriding power in the Governor obtained in the manner explained in earlier paragraphs of this Report through his "special responsibility."

17. The division of legislative powers between Centre and provinces would no longer make appropriate the concentration in the hands of the Governor-General of the power to legislate in emergency by Ordinance on provincial matters and this power should

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\* Sardar Tara Singh and Pandit Nanak Chand advocated a special arrangement in the Punjab in relation to "Law and Order". The Minister in charge of that subject should be assisted by a Statutory Board composed of one Hindu, one Sikh, and one Muslim; and the Governor should have the power of decision in the event of disagreement between the Minister and the Board.

henceforth be conferred on Governors also, for the double purpose indicated in paragraph 12 of this Report. Some delegates, however, considered that only the Governor-General should have the power to legislate by Ordinance.

18. Finally, the Conference was agreed that in so far as the Governor-General or a Governor is not constitutionally bound to seek Ministers' advice, or in any matter in which being bound to seek their advice he is unable to accept it, the general requirements of constitutional theory necessitate that his actions shall be subject to direction by His Majesty's Government and Parliament, and that the Constitution should make this position clear. In the case of a Governor the chain of responsibility must necessarily include the Governor-General.

19. It should be explained in conclusion that the recommendations on this Head of the Agenda have no reference to situations where a complete breakdown of the Constitutional machinery has occurred. It was, however, the unanimous view of the Conference that the Constitution should contain separate provision to meet such situations, should they unfortunately occur either in a province or in the Federation as a whole, whereby the Governor-General or the Governor, as the case may be, should be given plenary authority to assume all powers that he deems necessary for the purpose of carrying on the King's Government.

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## HEAD D (i). REPORT OF THE COMMITTEE ON FINANCIAL SAFEGUARDS.

The Committee was appointed "to consider the question of Financial Safeguards" and was constituted as follows :—

Sir Samuel Hoare (*Chairman*).  
Lord Irwin.  
Lord Peel.  
Lord Reading.  
Sir Akbar Hydari.  
Sir Manubhai Mehta.  
Sir Hubert Carr.  
Khan Bahadur Hafiz Hidayat Husain.  
Sir Cowasji Jehangir.  
Sir Tej Saprú.  
Sir Purshotamdas Thakurdas.  
Mr. Zafrulla Khan.

1. The Committee took as the basis of their deliberations paragraphs 18 and 19 of the Second Report of the Federal Structure Committee and the passage which relates thereto in the subsequent Declaration of Government policy by the Prime Minister at the final Plenary meeting of the first session of the Round Table Conference on the 19th January, 1931. The Committee adhere to the principle that no room should be left for doubt as to the ability of India to maintain her financial stability and credit both at home and abroad.

The Committee examined in somewhat greater detail than was possible at the time of the Second Round Table Conference the implications of the conclusion in paragraph 18 of the Second Report of the Federal Structure Committee that "it would therefore be necessary to reserve to the Governor-General, in regard to budgetary arrangements and borrowing, such essential powers as would enable him to intervene if methods were being pursued which would in his opinion seriously prejudice the credit of India in the money markets of the world."

2. It was agreed, with one dissentient, that the requisite power for the Governor-General could suitably be obtained by placing upon him by Statute a "special responsibility" in financial matters. The terms to be used in defining this special responsibility were carefully examined in the Committee. Some took the view that it was possible to enumerate exhaustively the occasions upon which the special powers of the Governor-General might have to be exercised. The majority are unable to accept this view, and are of opinion that the only statutory description of the special responsibility which will serve the essential purpose which all of us have in view is "special responsibility for safeguarding the financial stability and credit of the Federation."

As in the case of other special responsibilities of the Governor-General, the responsibility of the Ministers for the matters committed to their charge will remain unfettered and complete unless and until the Governor-General feels it necessary to exercise the powers entrusted to him; and when he does exercise his powers, his action will be so expressed as to make it clear that his Ministers bear no responsibility for it. Unless occasion arises for the exercise of these exceptional powers it will be for the Ministry, and the Ministry alone, to take decisions upon such matters as the means to be used for raising the necessary revenue, for allocating expenditure in the responsible field, and for the programme of external and internal borrowing.

It is, moreover, agreed that the Governor-General should not exercise the powers in question unless he is satisfied that failure to use them will seriously endanger the financial stability and credit of the Federation, and the Committee suggest that this should be made clear in the Governor-General's Instrument of Instructions.

The Committee are also agreed, with one dissentient, that the Governor-General should be enabled to obtain the services of a financial adviser, without executive power, to assist him in the discharge of the special responsibility referred to above. His services should be available to the Ministry as well as to the Governor-General, but he would be responsible to the Governor-General and would be appointed by him in his discretion and (in cases subsequent to the first appointment), after consultation with Ministers.

3. It has always been contemplated that the budget should include certain items of expenditure which are declared by Statute to be non-votable, for example, charges in respect of reserved departments and the service of the debt. The Committee endorse this principle.

4. The Committee agree with the recommendation in paragraph 18 of the Second Report of the Federal Structure Committee that efforts should be made to create, on sure foundations and free from any political influence, and as early as may be possible, a Reserve Bank which would be entrusted with the management of currency and exchange. The Committee are of the opinion that the proposals to be submitted to Parliament should be based on the assumption that such a Reserve Bank would have been created prior to the inauguration of the Federal Constitution, and recommend that steps should be taken to introduce into the Indian Legislature a Reserve Bank Bill conceived on the above lines as soon as is possible. Certain requirements must be satisfied before the Reserve Bank could start operations with a reasonable chance of successfully establishing itself; in particular, that the Indian budgetary position should be assured, that the existing short-term debt both in London and in India should be substantially reduced,

that adequate reserves should have been accumulated and that India's normal export surplus should have been restored. The Committee recognise that some of these matters are beyond the control of government but have been assured by the Secretary of State that, so far as is within his power and that of the Government of India, a policy which aims at the earliest possible realisation of the conditions required for the establishment of the Bank will be pursued.

The Secretary of State undertook that representative Indian opinion would be consulted in the preparation of proposals for the establishment of the Reserve Bank including those relating to the reserves.

5. In the existing state of financial and economic crisis throughout the world, it is impossible at this moment to predict a definite date by which the Reserve Bank will have been launched. In paragraph 20 of the Second Report of the Federal Structure Committee it was contemplated that if the establishment of the Reserve Bank was unavoidably delayed, some special temporary powers might be given to the Governor-General to control monetary policy and currency pending the establishment of the Reserve Bank. The Committee were informed that His Majesty's Government had carefully examined the possibility of framing special provisions to this end, but that none of the measures which had been suggested would have been satisfactory from the point of view both of the responsibility of the Federal Ministry and of the maintenance of India's credit; and it is important to remember that the maintenance of India's credit is itself one of the essential pre-requisites of the successful establishment of a Reserve Bank. The Committee accordingly have proceeded on the basis that the proposals to be submitted to Parliament would be framed on the assumption that the Reserve Bank will be in successful operation by the time that it is possible to inaugurate the Federation.

The Committee recognise that Indian opinion may well expect some indication as to the course to be followed if circumstances should arise in which, while all other conditions for the inauguration of the Federation have been satisfied, some obstacles remain in the way of the successful establishment of the Bank. The Committee have been assured by the Secretary of State that in this event His Majesty's Government would consult representatives of Indian opinion regarding the course to be adopted in the face of this particular difficulty.

It is on the basis of this assurance by the Secretary of State that some members of the Committee have been able to accept this part of the Report, and they reserve their right to reconsider their whole position should delay in the establishment of the Bank seem likely to result in postponement of the inauguration of the Federation.

6. Paragraph 18 of the Second Report of the Federal Structure Committee laid down that "provision should be made requiring the Governor-General's previous sanction to the introduction of a Bill to amend the Paper Currency or Coinage Acts." The majority of the Committee endorse this recommendation. It necessarily follows that this condition will apply to any provisions which may be contained in the Reserve Bank Act itself laying down the conditions with which the Bank has to comply in the management of currency and exchange.

7\*. The Committee are conscious of the difficulty in any country of reconciling the introduction of far-reaching constitutional changes, necessarily affecting finance, with the highly important requisite that the confidence of world markets and of the investor in future financial stability should be maintained. They believe that the Ministry of the future Federation will pursue a course of financial prudence and that the Federation will rapidly establish an independent credit of a high class. Though, in the future as in the past, it will naturally be the aim to obtain internally, so far as possible, such loan funds as may be required, India will doubtless find it necessary to develop a credit that will enable her also to appeal with confidence to external markets. The provisions outlined in this Report are accordingly designed to afford India an assured prospect of maintaining the confidence of the investment market. Assuming that a prudent financial policy is pursued by the Federation, the Committee feel that there will be no need to call the proposed special safeguards into operation. Their existence should, however, afford reassurance to the investing public at a time when far-reaching developments in the political and financial sphere are being introduced.

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\* One member can only accept this paragraph so far as it does not conflict with his dissent from para. 2.

## SUMMARY OF CONFERENCE DISCUSSION ON HEAD D (i).

The Conference noted the Report of the Committee on Financial Safeguards after the following points had been raised :—

*Mr. Jayakar* found difficulty in accepting any provision which seemed to confer on the Governor-General a special responsibility in regard to finance beyond the mere protection of the security of investors and the assurance of sufficient funds for the administration of his special subjects. He also feared that the proposed financial adviser might become a rival of the Finance Minister, and that the inauguration of the Federation might be seriously delayed if it depended on the creation of a Reserve Bank.

(Points raised by Sir Tej Saprú on this subject will be found in his speech in the general discussion.)

## HEAD D (ii).

REPORT OF COMMITTEE ON COMMERCIAL  
SAFEGUARDS.

The Committee was appointed " to consider the question of commercial safeguards " and was constituted as follows :—

Lord Reading (*Chairman*).  
 Lord Irwin.  
 Mr. Butler.  
 Lord Peel.  
 Sir Akbar Hydari.  
 Sir Manubhai Mehta.  
 Dr. Ambedkar.  
 Sir Hubert Carr.  
 Khan Bahadur Hafiz Hidayat Husain.  
 Sir Cowasji Jehangir.  
 Sir Tej Saprú.  
 Sir Purshotamdas Thakurdas.  
 Mr. Zafrulla Khan.

The Committee proceeded upon the basis of paragraphs 16-26 of the Federal Structure Committee's Fourth Report, which represents the general conclusions reached upon this subject, after much discussion and negotiation, at the previous sessions of the Round Table Conference.

The basic proposal of the Federal Structure Committee was that the avoidance of discrimination would best be achieved by specific provisions in the Constitution prohibiting discrimination in the matters set out in paragraph 18 of the Fourth Report of the Federal Structure Committee and defining those persons and bodies to whom the clause is to apply.

2. The Committee reaffirmed this proposal of the Federal Structure Committee as to the method of achieving the avoidance of discrimination. But while there was agreement (except for one dissident) that legislative discrimination should be dealt with by such provisions, some members were disposed to the view that it was undesirable to attempt to provide against discrimination when it resulted from administrative action, on the ground *inter alia* that as the powers to prevent administrative discrimination must necessarily be vested in the Governor-General and the Governors, the possession of such powers would be tantamount to conferring a right of appeal to those high officers against any action of the Ministry which had given rise to dissatisfaction on the part of any individual or minority. The general view of the Committee was, however, that no such consequence need be anticipated from the inclusion of " the prevention of commercial discrimination " in the



list of the Governor-General's and Governors' "special responsibilities," \* and that the adoption of this expedient was the only available means of making such provision as can be made against administrative action of this nature. On the general plan already agreed by the Conference for the statutory recognition as part of the scheme of safeguards in general of "special responsibilities" for certain specified purposes, the consequence would be, in this particular instance, that the Governor-General or Governor, as the case may be, would be entitled in the last resort to differ from proposals of his Ministry if he felt that these involved unfair discrimination. The Committee anticipate that the Instrument of Instructions would make it plain that the "special responsibilities"—or rather the powers flowing from them—are not to be invoked, either in this particular instance or in any other, capriciously or without due cause.

3. As regards the persons and bodies to whom these provisions should apply, a distinction was at one stage of the Committee's discussions sought to be drawn between those carrying on business in and with India; for example, it was suggested that in the case of companies, protection on the lines indicated above should be confined to companies registered in India. It was however pointed out that a provision on these lines involved possible attempts at double registration by companies originally registered in the United Kingdom which would inevitably give rise to great legal confusion and conflicts of jurisdiction. The majority of the Committee were not in favour of any such distinction, but were of opinion that this aspect of the matter should be dealt with on the basis of the principle of reciprocity, i.e., that no subject of His Majesty domiciled in the United Kingdom and no company registered in the United Kingdom should be subjected to any disabilities or discrimination in respect of the matters enumerated in paragraph 18 of the Fourth Report of the Federal Structure Committee to which subjects of His Majesty domiciled in India or companies registered in India are not subjected in the United Kingdom. Indian registered companies, on the other hand, would be secured against legislative or administrative action imposing upon them conditions as to the conduct of their business which discriminate against particular classes, through the operation of the general principles indicated in paragraph 18 of the Report of the Federal Structure Committee cited above.

The reciprocal basis here suggested should suffice to cover all the matters specified in paragraph 18 of the Fourth Report of the Federal Structure Committee, but, pending agreement between a Medical Council in India and the General Medical Council, some special provision may be required regarding the right to practice in India of practitioners registered in the United Kingdom.

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\* See paragraph 7 of Report on Governor-General's and Governors' special powers.

The Committee assume that it would be open to the Government of India should they wish to do so, to negotiate agreements for the purposes indicated in this paragraph with any other parts of the British Empire.

4. The Committee agreed that bounties or subsidies should be available, without distinction, to all firms or individuals engaged in a particular trade or industry at the time the enactment authorising them is passed, but that in regard to companies entering the field after that date the Government should be at liberty to impose the conditions of eligibility recommended by the External Capital Committee. It would, of course, be a question of fact whether the purpose of the subsidy or the imposition of particular conditions, though not discriminatory in form, was, in fact, intended to penalise particular interests; and the Governor-General or Governor, or the Courts, as the case may be, would have to form a judgment on this question in deciding whether a proposed measure was or was not discriminatory.

5. The Committee's proposals are based upon a conviction of the desirability of maintaining unimpaired under the changed conditions which will result from the new constitution that partnership between India and the United Kingdom with which the prosperity of both countries is bound up; and they are confident that the proceedings and policies of the future Indian Governments will be informed by a spirit of mutual trust and goodwill which will render it unnecessary to call into play the provisions of the Constitution to be framed on this matter.

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## SUMMARY OF CONFERENCE DISCUSSION ON HEAD D (ii).

The Conference noted the Report of the Committee on Commercial Safeguards after the following points had been raised :—

*Dr. Ambedkar* preferred the method of a “ convention ” scheduled to the constitution rather than clauses in the constitution limiting the powers of the legislatures.

*Mr. Jayakar* although accepting the principle that there should be no discrimination on the ground of race, attached great importance to not preventing the future governments and legislatures from adopting special measures to foster key industries or infant industries.

*Mr. Mudaliyar* with reference to the penultimate sentence of paragraph 3, stressed the importance of not creating a situation in which the hands of the Medical Council in India would be weakened in reaching a suitable agreement with the General Medical Council.

*The Secretary of State for India* undertook to do his utmost to secure that a suitable agreement was reached before the new constitution came into force.

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## HEAD E. DEFENCE.

1. The discussions proceed on the basis agreed to in the two previous Conferences that Defence should be reserved for administration by the Governor-General as representing the Crown. At the same time His Majesty's Government undertook to consider whether the principle enunciated by the Defence sub-Committee of the first Conference, that "with the development of the new political structure in India, the defence of India must to an increasing extent be the concern of the Indian people, and not of the British Government alone", could not be reaffirmed in a manner that would bring it into relation with the new Constitution itself. It was also recognised that the future Indian Legislature should have at any rate no less latitude of discussion in the sphere of Defence than the present.

2. The suggestion was made that the Governor-General's representative who is to act as Defence Member should be selected from Members of the Legislature representing British India or the Indian States, and further that he should be treated as a Member of the Federal Cabinet though not made dependent for his position on the support of the Legislature. It was argued that he could thus maintain a closer contact than could be otherwise secured between the Governor-General and representative political opinion in the sphere of Defence administration. Opinion was, however, divided; and other speakers referred to the difficulty of harmonising the position of the Defence Member with that of a Member of the Legislature dependent on the votes of his constituents, and also that of making him a party to decisions of the Federal Cabinet while he could not share their responsibility nor could they share his. His Majesty's Government expressed their preference for adhering to the conclusion previously recorded that the Defence Member should be appointed at the unfettered discretion of the Governor-General, since this in their view would preserve the essential responsibility of the Governor-General, while it would not rule out the possibility of selection from the Legislature, supposing that on occasion the individual best suited for the post in the Governor-General's opinion was a member of the Legislature.

3. The Conference discussed what arrangements should be adopted to enable the Governor-General to obtain supplies for Defence purposes without placing limitations upon his responsibility for the subject. Two alternative schemes were put forward by certain delegates: either that Defence expenditure should be fixed by a contract system for a term of years, and that the amount so fixed should be settled as far as possible by agreement on each occasion with the Legislature; or that Defence expenditure should

remain non-votable but that there should be a system of close consultation between the Governor-General's immediate Advisers on the one hand and the leading Federal Ministers on the other, before the Military Estimates were submitted to the Governor-General for his final approval and for presentation to the Legislature. A preference was manifested for the latter alternative; and it was further suggested that there should be a statutory obligation upon the Governor-General to consult the leading Federal Ministers in the manner indicated. A proposal was also made that, failing a scheme of this kind, the Defence Budget should be made votable by the Federal Legislature, subject to power of restoration by the Governor-General. His Majesty's Government felt that a statutory obligation of consultation could not but obscure the distinction between the responsibilities of the Governor-General and those of the Federal Ministers; but they associated themselves with the view that joint consultation in this matter was highly desirable in itself and ought in the ordinary course to become a regular feature of the working of the new Constitution. They were ready, therefore, to consider any suitable method of formally affirming the desirability of joint consultation, such as the inclusion of some reference to the principle in the Governor-General's Instrument of Instructions, and further to consider how an affirmation in this form could be brought into direct relation with the Act itself.

4. It was suggested that the importance of rapid progress with Indianisation in the Army should be affirmed in some similar form; and the proposal was also made that a comprehensive programme of Indianisation should be laid down. As regards the latter, the objection was made that the immediate fixation of a final programme, extending as it must over a considerable period, would almost certainly necessitate an extra degree of caution, and that the rate of progress even from the beginning might thus be unnecessarily retarded. The view was stated on behalf of His Majesty's Government that the pace of Indianisation must continue to be regulated by stages, while it was pointed out that a programme of Indianisation already exists which extends much further than the previous stage and looks forward to still greater developments in future. They expressed their sympathy with the suggestion that some means should be adopted of affirming the importance of the subject. In this connection reference was made to the fact that the question of the strength of British troops in India had been brought under expert investigation as recommended by the Defence sub-Committee of the First Conference, and was at present under consideration by His Majesty's Government.

It was suggested in some quarters for consideration that in recruitment for the Defence Forces no distinction should be made between what have been termed the martial and non-martial classes.

5. There was some discussion on the possibility of giving the Legislature a voice in the employment of the Indian Army outside the limits of India. On analysis, it appeared to be implicit in the reservation of Defence that the Governor-General must be solely responsible for all measures which he judges to be required in the interests of India within the sphere of Defence, whether or not these might on occasions involve the employment of Indian Forces outside the actual limits of India. The general conclusion was that His Majesty's Government should consider how far the Legislature might appropriately be given a voice as to the loan of Indian Forces to the Imperial Government on occasions when the interests of India within the sphere of Defence were not involved.

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## HEAD F.

REPORTS OF THE FEDERAL FINANCE COMMITTEE AND  
INDIAN STATES ENQUIRY COMMITTEE (FINAN-  
CIAL).

## FEDERAL FINANCE.

## REPORT OF THE COMMITTEE.

The Committee was appointed "to consider the question of 'Federal Finance' in the light of the Percy Report, Davidson Report, and suggestions in the Secretary of State's statement of 6th December, 1932,"\* and was constituted as follows:—

Lord Peel (*Chairman*).

Mr. Davidson.

Mr. Butler.

Lord Lothian.

Rao Bahadur Krishnama Chari.

Sir Akbar Hydari.

Sir Mirza Ismail.

Sir Manubhai Mehta.

Sir Hubert Carr.

Mr. Ghuznavi.

Sir Cowasji Jehangir.

Dr. Shafa'at Ahmad Khan.

Diwan Bahadur Ramaswami Mudaliyar.

Sir Nripendra Nath Sircar.

Sir Purshotamdas Thakurdas.

*Preliminary.*

1. One essential feature of the general scheme of federal finance outlined by the sub-Committee of the Second Round Table Conference presided over by Lord Peel, namely, the transfer to the Provinces of almost the whole of the proceeds of taxes on income (other than corporation tax), has subsequently been criticised on the ground that it jeopardises the solvency of the Federation by depriving it of adequate access to revenue from direct taxation. The mutual financial relations of the Federation and the Provinces would also remain uncertain and perhaps discordant if the counter-vailing contributions from the Provinces to the Federation, originally proposed for a term of years, could not be extinguished in accordance with a definite programme. The view of the Percy Committee was that no definite time limit could be fixed for the abolition of contributions of such magnitude. A further difficulty revealed by the Percy Committee is that, even on the basis of estimates which assume a substantial economic recovery, certain Provinces might be left in deficit, some possibly in permanent deficit, even if a full share in taxes on income could be handed over to them.

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\* Vide Appendix to this Report (page 58).

2. The aims which we have kept in view may be summarised as follows : to provide that all Provinces may start with a reasonable chance of balancing their budgets ; to afford them the prospect of revenue sufficiently elastic for subsequent development ; to assure the solvency of the Federation ; and to ensure that, after an initial period, the federal sources of revenue shall be derived from British India and the States alike. The achievement of all these objects is a task of extreme difficulty, especially at a time of great financial stringency. Nevertheless, the scheme set out in the following paragraphs seems to afford a promising line of approach. We are in general agreement as to its main principles and, subject to a satisfactory settlement of the two important factors referred to in paragraphs 4 and 6 below, consider that it offers the prospect of a solution.

### *Allocation of Taxes on Income.*

3. As the basis of the scheme we envisage a two-fold division of the proceeds of taxes on income into shares which would be assigned, as a permanent constitutional arrangement, to the Federal Government and the Provinces respectively.

4. The Federal Government would be entitled to a share based on the proceeds of heads of tax which are not derived solely from residents in British India. We have in mind such heads as corporation tax, tax on federal officers, tax in Federal Areas, tax on Government of India securities, and tax on the incomes of persons not resident in British India. We recognise that the exact content of the list requires detailed investigation and definition by those familiar with the income tax system, and further that in practice it may not be possible to isolate the yield of some of the heads. It may therefore be necessary, and from the administrative point of view it would in any case appear advantageous, to define at least a portion of the federal share as a percentage of the total yield. These problems, we suggest, should form the subject of immediate examination. It is obvious also that some assumptions will have to be made as to the yield of the various heads of tax. In the meantime we have proceeded on the basis that the five heads quoted above should be permanently federal, and that their yield would be  $5\frac{1}{2}$  crores out of the sum of  $17\frac{1}{2}$  crores estimated by the Percy Committee to be the normal net revenue from taxes on income. On these estimates, unfortunately, we are unable to report that the scheme is acceptable to all of us. The success of the scheme in practice and its virtue in theory depend very largely on the prospective amount of revenue which would be secured to the Federal Government ; and, while the representatives of British India are not prepared to go beyond a sum of about 5 crores, the States' representatives maintain that it should not be less than  $8\frac{1}{4}$  crores. It is only on the assumption that a share in taxes on income



estimated to yield at the outset a minimum of  $8\frac{1}{4}$  crores is secured to the Federal Government that the States' representatives have agreed to assume the burden of corporation tax as explained in paragraph 8 below.

5. The whole of the remaining proceeds from taxes on income would be assigned to the Provinces, though their actual receipts might be limited by certain demands of the Federation presently to be proposed. We contemplate that the basis upon which the sum actually available for distribution should be divided among the Provinces would be laid down under the constitution, and generally speaking, we are disposed to regard the proposals in paragraphs 74 and 75 of the Percy Report as suitable. These proposals, however, require re-examination in the light of our present scheme, and we recognise that some modification may be desirable.

6. In order to ensure the solvency of the Federal Government until the existing abnormal conditions have passed and sufficient time has elapsed for the development of new sources of revenue, it is proposed that, out of the provincial share of taxes on income, the Federal Government should retain a block amount for a period of  $x$  years. This amount would be deducted by the Federal Government from the total net yield attributable to the Provinces before any distribution took place. In this connection, however, some delegates wish to state that, in their opinion, the result as between the Provinces would be inequitable since, in effect, each Province would make a special contribution to the Federation in proportion to its individual share of income tax. They consider that the provincial share of taxes on income should first be distributed, and that contributions should then be taken back on some basis yet to be determined. Delegates from Bengal and Bombay are particularly emphatic on this point. As regards the amount to be allotted to the Federal Government, we are agreed that it should initially be sufficient to balance the federal budget at the outset, and it would therefore have to be determined shortly before the inauguration of the new constitution. In the determination of this amount, the Provincial Governments and the Government of India should, of course, be closely associated. Many members of the Committee consider that, in view of the high level of military expenditure, the possibility of reducing such expenditure should be closely examined in determining the initial federal deficit. Indeed, some members go farther, maintaining that the problem of a federal deficit might be entirely eliminated by very substantial reduction in expenditure under this head, and referring particularly to Sir Walter Layton's remarks on the subject in Vol. II, paragraph 248 of the Statutory Commission's Report. On the question whether the initial amount should continue in full for the entire period of  $x$  years we do not express a final opinion, but on the whole we think it might be better to divide that period into two parts. On this

basis, the amount would be fixed for a number of years and would then be gradually reduced to zero, on a scale provided under the constitution, during the remainder of the period of  $x$  years. As regards the duration of this period, we are unable to report agreement. The States' representatives consider that the minimum period should be 10 years, divided into two parts of at least five years each if the alternative proposal just mentioned were adopted. The British India representatives would limit  $x$  to four or five years, divided, if necessary, into parts of two (or three) and two years. There is agreement that if, during the initial period, the federal budget showed a prospect of a continuing surplus, relief to the Provinces and States which make special contributions to federal resources, whether direct or indirect, ought to have priority over remission of taxation.

7. In this connection we note that, if any scheme on the above lines were adopted, the references in the Davidson Report to "Provincial Contributions" should be construed as applying to the block amount retained by the Federal Government from the Provinces. (Vide paragraph 26 below.)

8. We also note that, provided a satisfactory yield from taxes on income is permanently assigned to the Federation, the States' representatives agree to assume liability for corporation tax on the expiration of the period of  $x$  years, subject to the understanding that, assessment of the tax on the companies in a State having been made, the State may raise the amount due to the federal fisc by any method it may choose, and not necessarily by the actual levy of that tax.

9. In addition to the normal powers of the Federal Government, we also contemplate, as an integral part of the scheme, special powers designed to meet such a situation as might arise if the federal budget, initially balanced by the amount retained from the Provinces, failed to remain balanced despite increased taxation upon existing sources and the development of new sources of revenue permanently allocated to the Federation. It is implicit in the scheme that the Federal Government should do its utmost to develop its permanent resources from the outset. It is accordingly proposed that, so far as British India is concerned, the Federal Government should have power to levy, for its own purposes, additional tax on the heads of income-tax permanently assigned to the Provinces. (In practice, of course, it would simultaneously raise the rates of tax on its own corresponding heads.) Whenever this was done, the Federal Government would also levy proportionate contributions on a determined basis (for example, that suggested for a somewhat similar purpose in paragraph 113 of the Percy Report) from such States as prefer not to come into a federal income-tax.

10. Most of us are agreed that, independently of the scheme described above, each Province individually should have a right of

surtax upon the personal tax levied on its inhabitants under the heads permanently allocated to the Provinces, subject to a maximum of 12½ per cent. of the tax centrally imposed. This surtax, like all other taxes on income, would be collected by federal agency. Some members, on the other hand, urge that a provincial right of this nature would not only offend against the general desirability of uniformity in rates throughout India, but would affect the reserve of taxable capacity available to the Federal Government in times of emergency.

11. As regards legislative procedure, we propose that the legislation for corporation tax and for the exercise of the special powers proposed in paragraph 9 above should be entirely federal. Legislation for the rates of provincial surtax would be entirely provincial. All other legislation for the imposition of taxes on income, whether affecting the basis of assessment of the rate of tax, would be uniform, and would be effected by the Federal Legislature with the leave of the Governor-General given after consultation with a council of representatives of the Units and of the Federal Government.

### *Deficit Provinces.*

12. While it is essential to ensure the solvency of the Federal Government and an equitable distribution of burdens among the partners in federation, we recognise also that provincial solvency must be secured if the Provinces are to function successfully. At the same time, we are faced with the insuperable difficulty that financial conditions for some time to come do not seem likely to permit any general distribution of revenues which would automatically bring all Provinces on to a solvent basis, and that some of them might even be in permanent deficit. We propose, accordingly, that any proved cases of deficit Provinces (whether already constituted or newly created) should be met by subventions from the Centre on certain conditions. (The special cases of Bengal, Sind and the North-West Frontier Province are referred to in the succeeding paragraphs, and the probable needs of Orissa are set out in the Secretary of State's statement printed as an Appendix to this Report.) We consider that there should be an enquiry shortly before the new order is inaugurated in the Provinces, as a result of which the amount of any subvention, where necessary, and its duration (if only required for a limited period) would be finally determined. It is important that the decision should be final, as periodic revision could not fail to react on constitutional independence and financial responsibility. We contemplate that the amount would be only just sufficient to enable a Province exactly to balance its budget on a basis of providing for bare necessities. Further, the total sum involved for all the Provinces concerned should be manageable in size and not such as to affect materially the resources which can be made available to the other Provinces. We do not at

the present stage give an opinion as to whether any particular subvention should be constant and permanent, or constant and terminating after a stated period of years, or constant for a term of years and then diminishing over a period. This must depend largely on the prospects of expanding revenue in a Province, and the enquiry which established the necessity of a subvention should also be directed to the conditions of its grant. As regards the source from which subventions to deficit Provinces should be derived, the representatives of the States feel strongly that, except in the case of the North-West Frontier Province, they should form a charge on revenue derived from provincial heads of income-tax after the period of  $x$  years. The British India representatives, on the other hand, maintain that the charge could be properly federal after the period of  $x$  years in virtue of the amount of income tax assigned permanently to the Federal Government under the scheme suggested in the earlier paragraphs of this Report.

13. In the case of Bengal, we recognise that the difficulties arising from the present distribution of resources are exceptional, and we suggest that they might perhaps be met by according to the Province some share in the revenue from jute. We make no definite proposal as to the form which this share should take as the question requires technical examination. A suggestion, however, which appears to some of us to afford a possible expedient, is that the export duty on manufactured jute might be removed, and a central excise on such jute imposed, to be distributed to the Provinces in which it is levied. A device of this kind would apparently overcome the serious difficulties likely to arise from giving any authority other than the Federal Government the power to impose export duties, or providing that a portion of the proceeds of any export duty should be assigned to a Province. The delegates from Bengal, however, view this suggestion with strong disfavour. They consider that the deficit position of Bengal should properly be remedied out of the export duty on jute, which is practically a monopoly of the Province. In their view, the whole proceeds of that duty should be allotted to the Province, though, for the period of  $x$  years defined above, half the proceeds might be given to the Federal Government.

14. Sind is in a special position in that careful investigations have already been made which show that it will be heavily in deficit for a considerable number of years, but that a surplus may eventually be expected to emerge. The whole financial outlook of the Province depends upon the Sukkur Barrage. In this case it is suggested that there should be subventions from the Federal Government on a pre-determined programme. (Some indication of the magnitude of the sums likely to be involved is afforded by the Secretary of State's statement of 6th December, printed as an Appendix to this Report.) We also consider that, in view of the financial importance of efficient administration of the Barrage, the Governor of

the Province might be given special supervisory powers in relation to its administration. Some members wish to point out that the grant of a subvention to Sind in order to enable its separation constitutes a departure from what, in their judgment, was the principle laid down by the Sind sub-Committee of the first Round Table Conference.

15. A subvention will, of course, continue to be required for the North-West Frontier Province. In order to develop a sense of financial responsibility, we consider that the amount of the subvention should be fixed both initially and on the occasion of each revision for as long a period as may be found possible.

#### *Powers of Taxation.*

16. We agree generally with the proposals of the Percy Committee in Chapter VI of their Report, subject to such modifications as may be required by the scheme for the allocation of taxes on income outlined above.

17. In regard to the list of "taxes leviable for the benefit of the Units subject to a right of federal surcharge," we contemplate that all legislation should be undertaken by the Federal Legislature.

18. We feel that, if the lists of sources of revenue which it is proposed to insert in the constitution are carefully drafted, the problem of residuary powers of taxation will be reduced to small dimensions. Nevertheless, we consider that some provision for residuary powers is required, and we recommend that they should vest in the Units subject to the condition that the levy of a tax shall not directly prejudice a federal source of revenue.

#### *Emergency Powers of the Federal Government.*

19. We contemplate that the special powers, with which we have proposed in paragraph 9 above to invest the Federal Government, should ordinarily suffice to obviate the necessity of emergency contributions such as were proposed in section 21 of Lord Peel's Report, 1931.\* Nevertheless, we think it may still be desirable to provide in the constitution for such contributions, and we support the proposals of the Percy Report (paragraphs 112 and 113) as regards both the definition of the circumstances in which they should be levied and the basis of their assessment, except that we prefer in the case of a war emergency that it should rest with the Rulers of the States, as heretofore, to place their resources freely at the disposal of the Crown.

#### *Borrowing Powers of the Units and Security of Federal Loans.*

20. We agree generally with the recommendations of the Percy Committee in paragraphs 117 and 118 of their Report as to the limits within which the Units should exercise powers of borrowing and the machinery required in this connection.

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\* Report of Federal Finance sub-Committee printed as Appendix to Third Report of Federal Structure Committee.

21. We doubt, on the other hand, whether the proposal in section 22 of Lord Peel's Report, 1931\*, that future federal loans should be secured on the revenues of the Provinces as well as of the Federal Government, would really be effective. On the whole, we consider that it would be advantageous clearly to base the security for future federal loans on the revenues of the Federal Government only. The pre-federation debt, of course, will continue to be secured on "the revenues of India."

*Contributions and Immunities of the Indian States.*

22. We have considered the adjustments which will be required to enable individual States to enter the Federation, on the basis of the general financial scheme, taking as its leading assumption that in an ideal system of federal finance all Federal Units would contribute on a uniform and equitable basis to the federal resources. It is generally agreed that the terms of entry of the States into federation should, as far as possible, entail the gradual elimination of contributions of a special character (cash contributions or ceded territories) by certain States to the resources of the Federal Government, and the disappearance of the immunities or privileges of certain States in respect of certain heads of federal revenue (sea customs, salt, posts and telegraphs).

23. To effect the necessary adjustments, separate agreements would require to be made, before the entry of the States into federation, with those now contributing in cash, or which contributed in the past by cession of territory for defence, and also with those now enjoying immunities or privileges in respect of specific heads of federal revenue. We endorse the recommendation of the Davidson Committee that the separate settlement for each State affected should be made by means of a balance-sheet setting off credits (in respect of cash contributions and ceded territories) against the value of any privilege or immunity enjoyed by the State. We also accept as a basis the plan proposed in paragraphs 443 and 444 of the Davidson Report.

24. We have not felt it to be a part of our duty to investigate the correctness of the details as regards existing contributions and immunities or privileges appended to the Davidson Report. Some question has been raised as to whether certain immunities should rank for the adjustments proposed, in view of the nature of the consideration which certain States have agreed to pay and are still paying for them. In this connection we note the caution in paragraph 13 of that Report as to the need for verification of the details in the Report, and we assume that the general principles accepted in the foregoing paragraph would be applied with due regard to the circumstances in which the contributions and immunities of individual States originated.

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\* Report of Federal Finance sub-Committee printed as Appendix to Third Report of Federal Structure Committee.

25. On the assumption that the method of adjustment with the States will be as above described, the nature of the settlement, in respect on the one hand of contributions and on the other of immunities and privileges, requires to be considered in some greater detail.

26. We are strongly of opinion that the present cash contributions, of unequal incidence, paid by certain States, contravene the fundamental principle that contributions to federal revenues should be on a uniform and equitable basis; and we endorse the view of the Davidson Committee that there is no permanent place for such exceptional and unequal contributions in a system of federal finance. We accordingly recommend that, generally speaking, these contributions should be extinguished not later than the expiry of the period of  $x$  years provided for in paragraph 6 above; and, in case this period should be protracted longer than is expected, that a moiety should cease to be paid at the latest in 10 years from the date of federation, and the whole within 20 years. Some of us would favour the immediate extinction of the cash contributions, but the general view is that, during the period of  $x$  years, the entire sacrifice of this source of federal revenue would not be practicable. At the same time, it is the view of all of us that any cash contributions which are continued during the period of  $x$  years must be taken in reduction of any contribution under paragraphs 9 and 19 of this Report which the States may be called upon to make during that period.

27. We have taken note of the view of the Davidson Committee in paragraph 95 of their Report that the tributes and cessions of territory for defence have, for the most part, a common origin. We therefore accept their view that States which in the past have ceded territory in return for protection are entitled, equally with the States now paying cash contributions, to some form of relief. Most of us agree with the conclusion of the Davidson Committee that the net value of the territories at the time of cession constitutes the fairest basis for calculating the relief to be granted when such relief is desired by a State. This, however, assumes that retrocession of the territories in question, or failing retrocession an exchange of territories in favour of the States concerned, is not found to be a practicable alternative. Credits in respect of ceded territories should rank for adjustment *pari passu* with credits in respect of cash contributions.

28. We fully endorse the view of the Davidson Committee that inter-State tributes are anti-federal, and we view with approval the suggestion that these tributes should disappear, or be replaced by some formal token. In any case, we recommend that the Government of India might explore, in consultation with the States concerned, whether the relief in respect of ceded territories,

proposed in the preceding paragraph, should be reduced *pro tanto* by the amount of any inter-State tribute retained by a State which has a claim to relief in respect of ceded territory or tribute.

29. Turning to the question of the immunities and privileges, great and small, which are enjoyed by numerous States, and of which the nature and value is indicated in the Davidson Report and its Appendices, we would reiterate the view that the entry of each State into the Federation should, as far as possible, result in its assuming liability for an equitable portion of federal expenditure. Nevertheless, we agree with the conclusion of the Davidson Committee that, where a State enjoys privileges or immunities the value of which is not off-set by any special contribution, that State must retain the balance in its favour, in whole or in part, on its entry into the Federation.

30. In the case of salt, we note with approval the suggestion in paragraphs 230-232 of the Davidson Report that restrictions upon the marketing of salt manufactured in Kathiawar might be removed. We assume, however, that the change recommended would require the agreement of the States concerned before it could be brought into effect in regard to any of them.

31. In the case of sea customs, we note that the present annual value of the immunities enjoyed by 14 Maritime States amounts to over 1,80 lakhs, and we recommend that the question of extinguishing these immunities by compensation should be left over for consideration after the Federation comes into being. Meantime, however, our general view is that the possession by certain States of an immunity which prevents other States or Provinces from making their full contributions to the Federation, is contrary to federal principles. The existing treaties and agreements must be fully observed and no change made in them without the consent of the States concerned. But we recommend that Maritime States should retain at the most not more than the value of the duties on goods imported through their ports for consumption by their own subjects.

32. Numerous other important questions are raised in the Davidson Report, decisions on which must necessarily affect the adjustments to be made with individual States. We have thought it best to confine ourselves to the broader questions of principle affecting financial settlements with the States generally. We recommend that the conclusions reached on these basic questions should be applied to the examination of the further questions raised in the Davidson Report which is required before settlements with individual States can be effected.

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## APPENDIX.

ABSTRACT OF THE SECRETARY OF STATE'S STATEMENT TO THE CONFERENCE ON  
6TH DECEMBER, 1932.

The problems of federal finance have already been considered by two Committees, under the chairmanship of Lord Peel and Lord Eustace Percy. Within the limits of their terms of reference, no two committees could have produced more valuable reports. But certain facts have emerged, both from the Committees' enquiries and from the events of the last twelve months, that necessitate a review of the problem from a rather wider angle than that from which the Peel and Percy Committees investigated it.

For example, the Peel Committee based its main recommendations upon the assignment of income-tax to the Provinces, with countervailing provincial contributions to the Centre for a definite period of ten or fifteen years. The Percy Committee, when they went into this question, found that no time limit could safely be put at the end of which the provincial contributions should come to an end. This is an important consideration and must be taken into account. A good many delegates were originally prepared to accept provincial contributions for a limited time; but now it appears that these provincial contributions might have to continue indefinitely. The rather unfortunate history of provincial contributions under the Montagu-Chelmsford Reforms must be kept in mind. Provincial contributions are at best a bad and rather dangerous expedient, and it seems a very serious step for the Conference to decide upon a scheme of finance with these provincial contributions for an indefinite period.

Again, the Percy Committee showed that if affairs go well there may be just enough money to go round; but they certainly did not take the view that there is enough money to go round at present. They based their recommendations upon the hope that there will be a world recovery, that commodity prices will go up, and that the finances of the Federal and Provincial Governments will be substantially better than they are now. Regretfully, however, it must be recognised that the position to-day is not substantially better from the point of view of the prospective Federal Government and the Provincial Governments than it was twelve months ago. A recent estimate of the position of the Central and Provincial Governments shows that the central budget is likely to balance but it will only balance as a result of new and heavy taxation. In the case of the Provinces, there will be many budgets showing deficiencies at the end of the year, and to-day no one can possibly say when these deficiencies will be wiped out.

The general conclusion to be drawn from these facts is that at the present time, the Federal Government would really need all the income-tax that is being collected. If, therefore, the Peel Committee's recommendation were accepted and the proceeds of income-tax were handed over to the Provinces, it would mean that, for an indefinite number of years, the Provinces would theoretically have the income-tax, but the whole of the tax would be transferred to the Federal Government in order to maintain its solvency. This would be a very anomalous state of affairs. Everyone is most anxious to give the Provinces real autonomy, with the fullest possible freedom in the disposal of their revenue and for their development; but no one would be prepared to set up a Federal Government that really had not at its disposal sufficient money to make itself solvent. Unless the Federal Government has at least the main part of the income-tax that is now being collected, it is not apparent how it is going to fulfil its obligations and remain solvent.

The Percy Committee, on the assumption that the present depression would come to an end and that there would follow a period of reviving trade and of increasing prices estimated that it would be possible to distribute only about five crores and then only if allowance were made for the match tax which has not yet been imposed. Unfortunately, the assumption on which this forecast was based is a long way from being realised, and in India the immediate financial outlook is not encouraging. The Government of India have been able this year to budget for a small surplus only by raising taxation to a very high level, by reducing pay, by drastic retrenchment and by the postponement of expenditure. In the Provinces, where the field of taxation is more limited, the position is worse; and although a policy of severe retrenchment has been followed, seven out of the nine Provinces may this year be in deficit. From the latest figures available it appears that, taking India as a whole receipts will hardly balance expenditure. As matters stand, therefore, the Centre cannot surrender any substantial portion of its revenue; and if the Peel plan were applied in present circumstances, this would merely mean that the proceeds of the income-tax would be transferred and the whole amount taken back in the form of contributions.

The alternatives open to the Conference appear to be either to make no constitutional change in the Provinces until there is a marked financial recovery, or to attempt to devise some emergency plan which will enable the deficit Provinces to start as autonomous units on an even keel. It would scarcely be seriously suggested that a Province which could not balance its budget should be given a new constitution and left to work out its own salvation. The problem, therefore, is two-fold: first, to devise emergency measures which will enable the reforms to be introduced; and, secondly, to embody in the constitution permanent provisions for the division of taxation powers and resources. The subject is one of great difficulty and complexity and it would probably help the Conference if a concrete plan were placed before it. The following proposals are tentative only and, of course, no final decision can be taken until the views of the Government of India and of the Provincial Governments have been obtained.

As regards emergency measures, it is suggested that we should consider the possibility of providing for financial equilibrium in the deficit Provinces at the outset by means of grants from the Centre. Under this plan it would be necessary, on the eve of the change, to ascertain the amount necessary in the case of each deficit Province, and for the total amount required to be found by the Government of India. It is, of course, impossible to estimate now the amount that might be needed, but it is hoped that it would not be an unmanageable sum. A number of questions in connection with these initial subventions arise: by what authority should they be determined; whether the contributions should be permanent or open to revision after a stated period; and whether they should be absorbed in any future distribution of central revenue. These subsidiary though highly important questions can best be dealt with in Committee. It will, of course, be realised that the initial subventions would do no more than start the deficit Provinces on a bare subsistence level. But if there is not enough money to go round they must tighten their belts and wait for better times.

As regards permanent arrangements, it must, so far as is possible, be ensured that the Provinces will have a reasonable expectation that, when normal times return, they will be able to function properly as autonomous units and to develop along their own lines. In the first place, it is necessary to define the field of taxation open to them. Certain proposals have been made by the Percy Committee, and these will have to be examined in Committee. Connected with this is the question of residuary powers of

taxation, which, though perhaps not very important from the financial point of view, has led to considerable differences of opinion. Next, it is suggested that the Provinces should be given from the outset a right of surcharge of certain heads of income-tax up to 12½ per cent., so that they may at once be in a position to supplement their resources if they desire to do so by this method. The initial limit of surcharge should be low, as income-tax rates in India are already high; but the constitution might provide that the maximum percentage rate of surcharge could from time to time be increased. Collection would still remain central. As regards income-tax receipts, the constitution should provide for their division, and it will have to be considered in Committee whether this can best be done by the straightforward method of surrendering from time to time blocks of the receipts as the financial position permits, or whether any better plan can be adopted. It seems also desirable to provide for the possibility, with the return of prosperity, of distributing shares of certain specified heads of federal revenue, including the imposition by the Federal Government of excises for the benefit of the Units.

To summarise, special measure would be taken by means of central subventions to start the deficit Provinces on an even keel; the provincial field of taxation would be defined and Provincial Governments invested with a limited right of surcharging the income-tax; as the financial position improved, central revenue would be transferred, and special taxation for the benefit of the Units might be imposed. It must be admitted that the Provinces may regard such an arrangement as a poor substitute for the definite advantages which they expected to gain from the application of the Peel plan; but the problem is conditioned by the realities of the situation, and this should not be forgotten. Nor should it be forgotten that it is vital to preserve the financial stability of the Centre.

There are a number of other questions connected with federal finance which will have to be considered. The questionnaire that has been circulated sets out some of these, but perhaps they may be better discussed in the Committee appointed for the purpose.

Lastly, there are two questions on which one or two observations should be made before the general discussion begins, viz., the questions of the separation of Sind and the separation of Orissa. In the first place, there is the separation of Sind, which His Majesty's Government have accepted in principle subject to the discovery of satisfactory means of financing the new Province, and which the Conference accepted in principle last year. The financial problem has been examined both by an Expert Committee and by a Conference of representatives of Sind presided over by Mr. Brayne, whose Report indicates there will be a deficit of 80½ lakhs from 1933-34 to 1938-39, after which it would be continuously reduced until, in 1944-45, a net surplus, of gradually increasing amount, would be established. These estimates represent a reasonable working hypothesis, except in one particular. They assume that the charges in respect of accumulated interest on the Lloyd Barrage debt would be shared between Bombay and Sind. After carefully considering the views of the Sind Conference, however, the conclusion has been reached that such a proposal would be inequitable to Bombay and inconsistent with the general principles on which separation ought to be effected. On this basis, after allowing for certain possible economies, and for the fact that the additional cost of separating Sind is expected to be covered by fresh taxation within the Province, there is likely to be an initial deficit on the administration of Sind amounting to about Rs. ½ crore, which would be extinguished in about fifteen years, or earlier if new resources became available.

Secondly, there is the question of Orissa. In this case it is impossible to make so definite a statement until an opportunity to consider the whole question has been found; but in the discussions of the Conference it is

certainly desirable that the possibility of creating a separate Province of Orissa should be taken into account. His Majesty's Government have not yet reached any final decision in principle upon this matter, though they hope shortly to be in a position to announce their conclusions. Meanwhile, it would be well that the Conference should consider the financial difficulties involved. The exhaustive Report of Sir Samuel O'Donnell's Committee has been thoroughly examined by the Government of India, who consider that slight reductions in the estimates might be made, with the following result:--

								Rs. lakhs.
Basic annual deficit	...	...	...	...	...	...	...	13½
Additional recurring cost of separation	...	...	...	...	...	...	...	15
Total initial deficit	...	...	...	...	...	...	...	28½
Ultimate deficit	...	...	...	...	...	...	...	35

It is suggested that the Conference might consider the question on the basis of these estimates. In so doing, the conclusion of the Orissa Committee will doubtless be borne in mind, that the deficit cannot be met to any appreciable extent by the imposition of new taxes.

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## SUMMARY OF CONFERENCE DISCUSSION ON HEAD F.

The Conference noted the Report of the Committee on Federal Finance after the following points had been raised :—

(1) *R. B. Raja Oudh Narain Bisarya*, on behalf of H.H. the Nawab of Bhopal, did not agree to corporation tax being included in the list of federal sources of revenue, or to any arrangement which might involve a direct contribution from the States towards charges on account of purely British-Indian liabilities. (*Mr. Rushbrook Williams* added that he believed this statement to represent the opinion expressed at an informal meeting of the Chamber of Princes last March.)

(2) *Mr. Rushbrook Williams*, in regard to paragraph 31, stated that the position of the Kathiawar and other Maritime States must be governed by their Treaties. It was impossible for the States which he represented to accept the general proposition that they should only retain the duty on goods consumed in their own territories.

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## HEADS G AND H.

## I.—POWERS OF THE INDIAN LEGISLATURES VIS-A-VIS PARLIAMENT.

## II.—CONSTITUENT POWERS.

## III.—FUNDAMENTAL RIGHTS.

## I.—POWERS OF THE INDIAN LEGISLATURES VIS-A-VIS PARLIAMENT.

The existing Government of India Act embodies various provisions, all taken from earlier Acts, which place limitations upon the powers of the Indian Legislatures. The general effect of these provisions is *inter alia* that any legislation passed in India, if it is in any way repugnant to any Act of Parliament applying to India, is to the extent of the repugnancy null and void. It was felt that the form of these old enactments would be inappropriate for adoption as part of the Constitution now contemplated—a constitution very different in character from that of which they originally formed part; and that in substance, also, they would be unnecessarily rigid. There are certain matters which, without question, the new Constitution must place beyond the competence of the new Indian Legislatures and which must be left for Parliament exclusively to deal with—namely, legislation affecting the Sovereign, the Royal Family and the Sovereignty or Dominion of the Crown over British India; moreover, the Army Act, the Air Force Act and the Naval Discipline Act (which, of course, apply to India) must be placed beyond the range of alteration by Indian legislation; and it may also be found necessary to place similar restrictions on the power to make laws affecting British nationality. But, apart from these few matters, it was felt that the new Indian Legislatures, Federal or Provincial, can appropriately be given power to affect Acts of Parliament (other than the Constitution Act itself) provided that the Governor-General acting “in his discretion” has given his previous sanction to the introduction of the Bill and his subsequent assent to the Act when passed; in other words, the combined effect of such previous sanction and subsequent assent will be to make the Indian enactment valid even if it is repugnant to an Act of Parliament applying to India. In his decisions on the admissibility of any given measure the Governor-General would, of course, on the general constitutional plan indicated in the Report on the Special Powers of the Governor-General and Governors, be subject to directions from the Secretary of State. Beyond a provision on these lines no further external limitation on the powers of Indian Legislatures in relation to Parliamentary legislation would appear to be required.

## II.—CONSTITUENT POWERS.

The conclusion just indicated—that the power to vary the provisions of Acts of Parliament should not relate to the Constitution Act itself—led directly to the question of Constituent Powers. Discussion of this question disclosed a unanimous recognition of the fact that it would be impossible to contemplate a delegation to Indian Legislatures by provisions in the Constitution Act of any *general* powers to alter that Act itself, and that such powers must necessarily remain with Parliament for exercise by means of further legislation as and when required.

2. This head of the Agenda was, however, framed on the assumption that there might be some matters in regard to which specific powers might be granted to Indian Legislatures to make modifications, subject to suitable conditions, of the detailed arrangements to be embodied in the new Act. The problem was discussed with particular reference to two matters which, though of a somewhat different character, were found to raise substantially the same problems—namely (a) the details of the franchise and the composition of the Legislatures—Provincial and Federal; and (b) the alteration of provincial boundaries, or the formation of new provinces. Taking the latter first, there was a general feeling that, while, once the Federation had been brought into being, it would be undesirable to give ground for the impression that the number, size or character of the federating units was to be liable to frequent or capricious re-arrangement at the behest of particular elements in their population—an impression which would be inimical to solidarity and to a settled political outlook—yet the Constitution Act might advantageously provide machinery whereby His Majesty's Government would be empowered, after satisfying themselves that proposals for the re-adjustment of provincial boundaries, or possibly even for the formation of a new province, had behind them a solid backing of popular opinion in the areas concerned, and would not involve undue commitments on the resources of the Federation or the provinces, to give effect to such proposals. Attention was drawn in this connection to the provisions of s. 52A of the existing Government of India Act as an indication of the kind of provisions which it might be desirable to retain in being.

3. As regards the franchise and the composition of the Legislatures, it was recognised that scarcely any modification of the plans now contemplated for embodiment in the new Constitution could, in practice, fail to raise, either directly or indirectly, the general communal issue. His Majesty's Government had, indeed, contemplated, and had foreshadowed in their Communal Decision, the insertion of provisions in the new Constitution designed to enable, after a suitable interval of time, its modification with the consent of the various communities and interests affected. Discussion, however, disclosed a general feeling that most difficult and

controversial issues would be involved in an attempt to define here and now conditions which, on the one hand, would not render the power to make such modifications incapable of exercise, on account of the stringency of conditions to be fulfilled and, on the other hand, would satisfy the several communities and interests that any decision for modification was, in fact, the result of substantial mutual agreement. It was, moreover, generally recognised that the difficulty which thus presents itself in relation to the Communal Award of devising suitable conditions for the exercise of any provisions in the nature of Constituent Powers in fact pervades the whole problem discussed under this Head. 'In the course of the discussion a very complete plan was, in fact, suggested as a statement of the conditions to which the exercise of the power (should such be granted by the Constitution) to modify the composition of the Legislatures and the nature of the franchise should be made subject. Objection, however, was taken to this proposal on the ground that its elaboration and stringency were such as, in all probability, to frustrate, in practice, the exercise of the power, even though there might be a really substantial popular demand for its exercise; it was suggested, therefore, on behalf of those who urged this objection, that a preferable course would be to leave it to His Majesty's Government themselves to determine the nature of the provisions to be framed in fulfilment of their intention that the details of the Communal Award should be susceptible of modification with the consent of the communities affected.

4. Finally, there was a consensus of opinion that the Constitution should provide that whatever powers were granted of this nature should not be capable of exercise save after the lapse of a substantial period of time from the date of inauguration of the new Constitution, and account was not lost, throughout the discussion, of the probability that Parliament itself, in enacting the new Constitution would be inclined to approach with great caution any proposals for its alteration otherwise than by means which it could itself control.

5. His Majesty's Government took careful note of the very difficult issues to which the discussion had given rise; they were disposed, while leaving unimpaired the authority of Parliament to decide any issues which might present themselves involving changes of a substantial character in the Constitution, to examine with care and sympathy the provision of such machinery as might obviate the disadvantages and inconveniences to be anticipated from the lack of means to secure any alteration of the details of the Constitution as first enacted otherwise than by the difficult and lengthy process of an amending Bill; and would be concerned to see that any provisions designed with this object were so framed as to enable Indian opinion to be fully ascertained before any alterations were, in fact, carried out.



### III.—FUNDAMENTAL RIGHTS.

In the agenda of the Conference the question of Fundamental Rights was purposely linked up with the question of the powers of the Legislatures, because it was felt that it had been insufficiently realised that the effect of inserting provisions of this kind in the Constitution must inevitably be (if they are to be more than expressions of a political ideal, which have never yet found a place in English constitutional instruments) to place statutory limitations on the powers of the new legislatures which may well be found to be of the highest practical inconvenience. The Government have not in any way failed to realise and take account of the great importance which has been attached in so many quarters to the idea of making a chapter of Fundamental Rights a feature in the new Indian Constitution as a solvent of difficulties and a source of confidence; nor do they undervalue the painstaking care which has been devoted to framing the text of the large number of propositions which have been suggested and discussed. The practical difficulties which might result from including many, indeed most, of them as conditions which must be complied with as a universal rule by executive or by legislative authority were fully explained in the course of discussion, and there was substantial support for the view that, as the means of securing fair treatment for majority and minorities alike, the course of wisdom will be to rely, in so far as reliance cannot be placed upon mutual goodwill and mutual trust, on the "special responsibilities" with which it was agreed\* the Governor-General and the Governors are to be endowed in their respective spheres to protect the rights of minorities. It may well be, however, that it will be found that some of the propositions discussed can appropriately and usefully find their place in the Constitution; and His Majesty's Government undertook to examine them most carefully for this purpose. In the course of discussion attention was drawn to the probability that occasion would be found, in connection with the inauguration of the Constitution, for a pronouncement by the Sovereign, and that, in that event, it might well be found expedient humbly to submit for His Majesty's gracious consideration that such a pronouncement might advantageously give expression to some of the propositions brought under discussion which prove unsuitable for statutory enactment.†

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\* See Report on the Special Powers of the Governor-General and Governors, pp. 25-35.

† Dr. Ambedkar advocated the inclusion in the Instrument of Instructions to the Governor-General and Governors of any propositions relating to Fundamental Rights which could not be enacted in the Constitution Act itself.

## REPORT ON HEAD I.

## FORM OF STATES' INSTRUMENTS OF ACCESSION.

A meeting was held on the 20th December under the Chairmanship of Lord Irwin, which was attended by Mr. Davidson, Mr. Butler, the Representatives at the Conference of the Indian States and certain legal experts and officials, to consider the form of States' Instruments of Accession.

2. It was agreed that the Federation would derive its powers in part from the powers which the Rulers of the States would agree, for the purposes of the Federation only, to transfer to His Majesty the King for exercise by the Federal Government and Legislature and other Federal organs. In order to effect the transfer of these powers an agreement would require to be made by each State individually with the Crown which might be termed an Instrument of Accession.

3. It was agreed that the accession of States whose Rulers were not for the time being exercising Ruling Powers would have to be postponed until their Rulers were in possession of Ruling Powers. Some apprehension was felt as to the consequent reduction at the outset in the strength of the Indian States' representation in the Federal Legislature and it was considered that this question might require further examination in connection with that of the size and composition of the Federal Legislature in order that, having regard to the interests of British India, the position of the representation of the States as a whole might not be prejudiced.

4. It was accepted that the formal conclusion of agreements between the States and the Crown could not take place until after the Federal Constitution had been approved by Parliament.

It was contemplated that the provisions of the Act in regard to Federation should not take effect at once, but that the Act should contain a proviso that they should be brought into force after a specified period if and when so many States had acceded. This procedure would secure that the States should not be asked to commit themselves definitely until they had the complete Act before them. But it was suggested that opportunity might be found to enable the Princes' views on the draft Constitution to be made known to Parliament while legislation was in progress. In particular it was thought desirable that opportunity should be afforded to the Chamber of Princes and the States individually to consider the Constitution as outlined in the White Paper and possibly again at a later stage (e.g., during the Report stage) if important amendments were introduced in the scheme after its discussion in the Joint Committee where the States would be represented and the introduction of a Bill in Parliament.

5. As regards the form of the Instruments of Accession the procedure which commended itself to the meeting as a whole was one whereby the States would convey to the Crown a transfer of the necessary powers and jurisdiction in accordance with the specific provisions of the Act. This procedure would enable respectively the Governor-General of the Federation and the other Federal organs established for the purposes of carrying out the Constitution, to exercise in relation to the States and the subjects of their Rules, but only in accordance with the Constitution, the powers which the Rules had agreed to transfer and would avoid a reproduction in the Instruments of Accession themselves of the wording of each clause of the Act which related directly or indirectly to the States. But provision would have to be made for the transfer to be limited by the exclusion of certain matters

6 It was agreed that the Instruments of Accession must provide for exclusion from the purview of the Federation of those powers and jurisdiction in respect of Federal subjects, in whole or in part, which it was not agreed by the individual States to transfer to the Federation, subject to the understanding that there could be no question of a State so restricting the transfer of powers as to render its adherence to the Federation ineffective.

7 It was considered desirable that in due course the skeleton draft of an Instrument of Accession should be discussed between the Viceroy and the representatives of the States

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#### SUMMARY OF CONFERENCE DISCUSSION ON HEAD I.

The Conference noted the Report on the "Form of States' Instruments of Accession" after the following points had been raised :—

With reference to paragraph 6, in reply to enquiries by Mr. Joshi and Mr. Jayakar, the Secretary of State for India made it clear that it was not contemplated that a State's accession to the Federation should be accepted unless it was really substantially undertaking the Federal duties.

It was made clear that it was not contemplated that the Treaties should contain provisions which would enable a State to come into the Federation and go out again at pleasure.

## REPORT OF COMMITTEE ON THE EDUCATION OF THE ANGLO-INDIAN AND THE DOMICILED EUROPEAN COMMUNITY IN INDIA.

1. The following delegates were selected to serve on the Committee :—

Lord Irwin (*Chairman*).

Sir Hubert Carr.

Sir Henry Gidney.

Sir Muhammad Iqbal.

Mr. Jayakar.

2. The Committee had the advantage of consultation with Sir Henry Richards, Senior Chief Inspector of the Board of Education, in regard to the system of inspection in England.

3. The main problem which the Committee had to consider was whether European education, which is at present a provincial reserved subject, should be a provincial subject under the new constitution, or should become a responsibility of the Central Government. As long ago as 1913 the domiciled European and Anglo-Indian Community asked that European education should be placed under the Central Government. In 1923, and again in 1925, deputations from the community were received by the Secretary of State for India and made the same request. More recently the Committee on Education presided over by Sir P. Hartog\* considered the matter and reported to the Statutory Commission against centralisation. The Committee had, therefore, to consider a problem which had been before Government in India and the Secretary of State for nearly 20 years.

4. It is perhaps, therefore, hardly a matter for surprise that two opposing opinions found strong expression on the Committee. In these circumstances the Committee sought for a middle course and they believe they have found it in the following proposals, which they accordingly submit for the approval of the Conference.

The Committee recognise the special needs and circumstances of the Anglo-Indian Community and the necessity of maintaining a proper and adequate standard of their education. They have, however, decided that it is not necessary on this account that Anglo-Indian education should be a central responsibility, but they recommend that the education of Anglo-Indians and domiciled Europeans should have special protection accorded to it in the several Provinces, and that means should be found to secure its better co-ordination. To this end they recommend that :—

(a) it should be provided by statute that there shall be no reduction in existing educational grants-in-aid for the community in any Province other than a reduction *pro rata* with a reduction in the general educational grants-in-aid, save with the consent of a majority of three-fourths of the Legislature concerned; and further that this special protection shall continue until such time as it may be decided otherwise by a majority of three-fourths of the Legislature. These provisions

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\* Interim Report of the Indian Statutory Commission (Cmd. 3407).

should be without prejudice to the special powers of the Governor for the protection of Minorities ;

(b) each Province should forthwith and before the new Constitution comes into force create a Board for Anglo-Indian Education, consisting of the Education and Finance Ministers of Provinces, one representative from each of the Universities in the Province, one representative of the Managers of Anglo-Indian Schools and two Anglo-Indians, the Boards being nominated by the Governors in consultation with the Ministers of Education after taking into consideration any recommendations put forward by the interests concerned. The Boards' duties would be to make representations to the Ministers as to the amount of the block grant that they might consider necessary for the discharge of their duties, to administer the grants when made, and to tender advice to the Ministers on matters of administration concerning Anglo-Indian Educational institutions ;

(c) in order to secure uniformity of educational standards, and co-ordination of Anglo-Indian education, throughout India an Inter-Provincial Board for Anglo-Indian Education should be established forthwith, consisting of the Provincial Ministers of Education or their deputies and an equal number of persons nominated by Provincial Governors to represent Anglo-Indian schools, in consultation with the Ministers of Education and the community concerned. The Chairman should be elected by the Board from their own number ;

(d) the Inspectorate of Anglo-Indian Schools should be appointed by the Inter-Provincial Board and placed under the general direction of the Board for the purpose of securing uniformity of educational standards and inspection. The Inspectorate should work under a Chief Inspector and have jurisdiction in such areas as the Board may decide, after consultation with the Provincial Boards concerned. In respect of the administration of schools situated within a Province, the Inspectorate would work under the specific control of the Provincial Minister of Education, acting in consultation with the Provincial Board of Education ;

(e) the cost of the Inter-Provincial Board and of the Inspectorate should be borne by the Provinces in proportions to be decided by that Board, or, failing agreement, by arbitration.

5. In making the recommendations in sub-paragraphs (b) to (e) of paragraph 4, the Committee assume that the maintenance of this or some equivalent machinery for the purpose of giving effect to the recommendation in sub-paragraph (a) of paragraph 4 should be rightly held to fall within the scope of the special responsibilities of Governors for the protection of Minorities.

#### SUMMARY OF CONFERENCE DISCUSSION ON REPORT OF COMMITTEE ON ANGLO-INDIAN EDUCATION.

The Conference noted the Report of the Committee on the Education of the Anglo-Indian and the Domiciled European Community in India.

## SUPREME COURT.

The Conference considered the question of a Supreme Court for India. In introducing the discussion *Sir Tej Saprū* referred to the fact that general agreement had been reached in previous discussions that some sort of a Federal Court was necessary to interpret the constitution and to decide constitutional disputes between the Federation and the Provinces and between the units of the Federation. The only question that remained was whether there should be a Federal Court as apart from a Supreme Court or whether there should be a Supreme Court as well. Now, if it became necessary to have a Supreme Court at all then he and his colleagues were entirely opposed to having a separate Supreme Court set up. In the interests both of economy and efficiency there must be only one Court which might sit in two divisions for the decision of Federal issues and of appeals from High Courts in India respectively. He pointed out that a purely Federal Court of three or four judges would not be likely to carry much weight while a bigger Court of nine to twelve judges would command confidence and attract talent. For these reasons he and his colleagues wanted both a Federal and a Supreme Court but not two separate Courts.

As regards the composition he thought that in view of the paramount importance of keeping the judiciary absolutely independent of all political taint the constitution should provide for the institution of the Court, for the appointment of the judges by the Crown and for the guaranteeing of their salaries. No religious or racial considerations should influence the appointment of judges who should be taken from any community, European or Indian, provided that they could command confidence by reason of their independence, of their competence and their impartiality.

The setting up of a Supreme Court, however, did not mean that the jurisdiction of the Privy Council should be ousted. That jurisdiction should continue. At present there are two classes of cases that come to the Privy Council. The first consists of cases which are valued at over Rs.10,000; the second of cases in which the High Court certifies that there is some substantial point of law which ought to come before the judges of the Privy Council. It would be to the advantage of all alike if the pecuniary limit of appeal were raised, and with regard to the second class of appeals a certificate was required, not from High Courts but from the Supreme Court. He did not think that the work of the Supreme Court would be so vast as to require 20 or 30 judges as had been suggested in certain quarters. The right of appeal was perhaps somewhat abused and it would be the business of the new Legislatures to consider whether this right should not be restricted in the

interests of justice, but his view was that no more than nine to twelve judges would be necessary in the combined Federal and Supreme Court.

As regards Criminal appeals, his view was that appeals to the Supreme Court should be allowed only in cases of capital sentences and then under certain well-defined conditions. He felt that the new constitution would not be complete without both a Federal and a Supreme Court.

*Mr. Zafrulla Khan* agreed generally with Sir Tej Sapru that there should ultimately be a Supreme Court. He considered, however, that as a Supreme Court was not an essential part of the constitution, all that was now necessary was to lay down the details of its constitution in the new statute, leaving it to the future Legislature to decide the actual date of its establishment. He agreed with Sir Tej that the right of appeal to the Privy Council should remain, that there should be some limitation to the number of appeals generally, and that the Supreme Court should have a certain criminal jurisdiction, for example, in cases of capital punishment; there should be a right of appeal to the Supreme Court in all cases of acquittal by a lower court and subsequent conviction by a High Court, and in other capital cases within certain defined limits.

*Sir A. P. Patro* speaking as a taxpayer was not convinced of the immediate necessity of a Supreme Court. A Federal Court was essential at the outset, but in their present straitened finances and with the jurisdiction of the Privy Council to continue, they might well wait until the Federal Court was in working order before setting up a Supreme Court. In any case it was not certain that the best talent could be procured for such a Court because a lucrative practice would generally be considered more attractive.

*Sir N. Sircar* was definitely opposed to the constitution of a Supreme Court. The cost would be prohibitive; any right of appeal to the Supreme Court even in the limited criminal field of capital cases, would be largely availed of and some 20 or 25 judges would be necessary to deal with the work. If the object of the proposal was to escape eventually from the jurisdiction of the Privy Council this was not possible because the Privy Council exercises a prerogative power. Nor was this desirable; the Privy Council, sitting as the last impartial tribunal in an atmosphere remote from local colour and prejudice, had done much for British-Indian jurisprudence during the last 150 years, and its services should not be lightly set aside.

*Mr. Mudaliyar* urged that a "Dominion Status" constitution involves a Supreme Court, just as a Federal constitution involves a Federal Court. The only issue therefore was whether a Supreme Court should be established now or later. The main objection urged to establishing it now was the cost. But this did not take account

of the fact that civil courts in India were generally self-supporting. The judges of the Federal Court, at least three and possibly five in number, might not be fully occupied by Federal matters and if sitting as a Supreme Court they heard civil appeals the stamp fees would offset the cost of the Court. Criminal appeals would be comparatively few. It should be noted that a resolution had been passed by the present Legislative Assembly subsequent to the meetings of the Consultative Committee in favour of the immediate establishment of a Supreme Court.

*Sir Akbar Hydari*, expressing the general view of the States delegation, said that it was essential that the Federal Court should be a separate and distinct entity. A Federal Court was a constitutional necessity; a Supreme Court was not a matter of immediate importance, and, in any case, was the concern of British India alone. To visualise two divisions of the same Court, one Federal and one Supreme, was to confuse the issue. A Federal Court was a Federal essential and would require to be manned by judges of outstanding integrity, with a knowledge of constitutional law, customarily associated with All-India interests and free from local prejudices. The question of a Supreme Court on the other hand was merely a question of supplementing the judicial system of British India.

*Sir Hubert Carr* considered that no case had been made out for incurring the expense of a Supreme Court.

*Mr. Jayakar*, having shown that no difference of principle existed on the British Indian side, asked whether the constitutional picture could be regarded as complete if it did not provide every Indian with a complete right of appeal within his own country. The cost of a Supreme Court and its date of establishment were questions of detail; in principle, it was an essential of the Constitution.

*Sir Tej Sapru* did not agree with the conception of a Federal Court as put forward by *Sir Akbar Hydari*.

After some discussion it was decided that, in view of the differences of opinion that had emerged, it would be of no advantage to appoint a Committee of the Conference to consider the question further.

Subsequently, by leave of the Conference, a note on the subject by *Sir Claud Schuster* and *Sir Maurice Gwyer* was circulated as one of the Conference memoranda (see page 203).

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## SECRETARY OF STATE'S SPEECH AT MEETING OF CONFERENCE ON 24TH DECEMBER, 1932.

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*Sir Samuel Hoare* : Lord Chancellor, to-day we are attempting to finish our endeavour to recreate the fellowship of the Round Table in modern conditions—the fellowship founded by King Arthur and depicted upon the opposite wall of this Royal Robing Room.

Lord Chancellor, we have not been unsuccessful in our attempt. Already others wish to follow our example. Only a few weeks ago a distinguished American came to see me to ask me for details as to our procedure. Evidently he was contemplating the experiment of a Round Table Conference for the Philippines. Lord Chancellor, imitation is the surest form of flattery, and the American's interest shows that the experiment upon which we have been engaged has been watched with the closest and most sympathetic attention in every part of the world.

To-day we are looking back at our past work. To-morrow we shall be looking forward to the next step.

As to the past, we have not been working in an empty void. We have not been attempting to create a situation in the air. We have not been, like the Abbe Siéyès in the years of the French Revolution, creating paper constitutions. From start to finish we have been circumscribed by the hard facts of the world as we find it. We have been confronted with the problem of reconciling the claims of three partners who have for many generations been united in an undertaking of far-reaching ramifications : Great Britain on the one hand, British India on the other, and Indian India on the other. The old Articles of Association were getting out of date ; a new bond of union had to be found.

Lord Chancellor, the great achievement of the first Round Table Conference was to establish the fact for the first and, I believe, for all time that the new bond must be the bond of an All-India Federation with the rights of each of the three parties effectively safeguarded. I believe that historians will say that this decision was a turning point in the course of the British Empire.

To-day let us with gratitude remember those Members who took so prominent a part in bringing this ideal into the realm of practical politics. Let us remember in particular His Highness the Maharaja of Bikaner, who I think was the first of the Princes to press his view in this respect upon the Conference. Let us also remember Sir Tej Bahadur Sapru. Sir Tej Bahadur Sapru, if I may say so, was the first member of the Conference who fully realised the implications of this great ideal and who in those early days was much more conversant with the details of Federation than I think any other member of the Conference. Lord

Chancellor, let us throw our minds back to those days. Scarcely any of us, having lived under a unitary form of government, really understood the implications of a Federation. I am told that at that time the booksellers of London did a roaring trade in the sale of manuals about Federation. I am told that there was a positive run upon the London Library by the various Government Departments concerned in order to get any text books that bore upon that difficult subject. Sir, if I may say so, it was of the greatest value to all our subsequent proceedings that we had from the very start the expert and technical advice of Sir Tej Bahadur Sapru upon all those very difficult constitutional questions. The Federal idea then was the great idea that emerged from the first meetings of the Conference.

The second Conference met in the face of very great difficulties. On the one hand we were in the throes of a world economic crisis; on the other we were faced with a change of Government and an impending General Election. Those factors in themselves placed great difficulties in the way of our deliberations.

But there was a third difficulty. There was the difficulty of the communal question. There we found with the best will in the world at every stage last year we were brought up against the barrier of the communal difficulty. I think the real achievement of the Conference last year was to start on foot the whole series of enquiries, most important of which were the detailed enquiries that led to the Government's Communal Award and included amongst which were the invaluable Reports of the Committees that went to India in the New Year—Lord Lothian's Committee, Mr. Davidson's Committee and Lord Eustace Percy's Committee. I am quite sure that without the work done by those Committees and without the Communal Award, that reluctantly but none the less inevitably the Government had to make, our deliberations this year would have been rendered impossible and infructuous.

I now come, Lord Chancellor, to the work of this Conference and I would venture to sum up the results in two sentences. I would say, first of all, we have clearly delimited the field upon which the future constitution is going to be built. In a much more detailed manner than in the last two years we have delimited the spheres of activity of the various parts of the constitution. Secondly, and I regard this result as much more important than even that important first result, we have I believe created an *esprit de corps* amongst all of us that is determined to see the building that is going to be reared upon the field that we marked out both complete in itself and completed at the earliest possible date. Lord Chancellor, I said that we had marked out the ground. Let me explain by a few examples what I mean by that assertion. I take the various parts of the constitutional structure in order.

I begin with the part that Indian India, the India of the States, is to play in the Federation. There we have made it quite clear that there is no risk in any respect to the Treaties or to the obligations into which they and we have entered. I hope that I have made it quite clear that all questions governed by that general term "paramountcy" do not enter into the Federal scheme at all. I think also I may say that we made some progress in the enquiry over which Lord Irwin presided one day this week into the methods by which the States will accede to the Federation.

Let me say in passing—for I think it may help our future discussions both here and in India—that we have always regarded an effective Federation as meaning the accession of a reasonable number of States and, as at present advised, we should regard something like not less than half the States seats and not less than half the population as the kind of definition that we have in mind.

Next I come to the Federation and the Units. Here, again, I think we have made great progress in delimiting the field between the Centre on the one hand and the Provincial and States Units on the other. We have been very carefully through the lists of Federal and non-Federal activities, and we have got much nearer to agreement than we have ever reached before. It is now quite clear that there will be a definite delimitation of the activities of each of these three parts of the federal structure. To-day I need not go into detail, for the Report of the Distribution of Powers Committee will show, both to you and to the world outside, the progress that we have made in that direction.

Next there is the very difficult question of Federal Finance, one of the most vital questions in the whole field of Federal activities. Unfortunately we were discussing that question at a time of great difficulty. We have been discussing it at a time when no Government in the world has sufficient money for its needs. But I think I can claim that there again we have made some substantial progress. I fully admit that there are differences still to be recognised and to be reconciled. I do not think it could be otherwise in any question of this kind, but I should like to say to Lord Peel, who, as far as the Conference is concerned, is the father of Federal Finance—at present it is a rather difficult offspring, but I think as it grows up it will become easier to manage—how much indebted we are both to him and his Committee for having made the progress that they have achieved. I think I can say that the work that they have done will very materially help the Government in coming to a decision, in consultation with the Central Government and the Provincial Governments in India, at an early date.

Then, Lord Chancellor, there are those difficult questions that we have always had with us in connection with the federal institutions, the questions about the size of the Chambers and about the allocation of seats. I say quite frankly that, as regards the size

of the Chambers, I had hoped that we should have reached a greater measure of agreement than we have found possible during these last weeks. It has been made clear that there still are differences to be reconciled, not only differences between British India and the States, but differences between the bigger States and the smaller States, differences even between some members of the Chamber of Princes and other members of the Chamber of Princes.

I wish that we could have reached further agreement upon this difficult question. I am quite sure that we have got to come to a decision upon it in the early future. To-day I would venture to say that, so far as the Government is concerned, we have come to the view that whatever may be the numbers of the Second Chamber, some system of grouping will have to be adopted. I would say further that we must await further discussions that are going to take place in India in, I hope, the comparatively near future, about the size of the Chambers. I hope they will succeed, but I would like to emphasise the fact that, whether by the parties directly concerned, or whether, if they prefer it, by the British Government, a decision must be reached upon this point in the comparatively near future unless a great part of our future discussions is to be gravely impeded.

Then there was the question of the representation of the communities in the Centre, particularly of the Muslim Community. There I think I can say definitely—I think I have said it indirectly very often before—that the Government consider that the Muslim Community should have a representation of 33½ per cent. of the British Indian seats in the Federal Chambers. So far as Indian India is concerned, that must be a matter for arrangement between the communities affected and the India of the Princes. But so far as the British Government has any part in the question, we will at any time give our good offices to making it as easy as possible for an arrangement between those parties in regard to future allocation of seats. There again I venture to say that definitely to-day, because I am anxious that that factor in the problem should not in any way impede the future progress in elaborating the further stages of the Constitution.

Now, with all these Federal questions, I can see that there is a grave anxiety in the minds of many members of the Conference—and I can sympathise with that anxiety—lest the various complications of which I have just given you certain instances should take too long to settle, and that the Federation itself will drift into the dim distance and will cease to be a reality in practical politics.

Feeling that anxiety, Sir Tej Bahadur Sapru asked last night that a definite date should be placed in the Bill at which time the Federation should come into being. He qualified his request—and qualified it, no doubt, quite rightly—with the reservation that

if the conditions were not fulfilled, Parliament must have some means at its disposal for postponing the date of the Federation.

Now I agree with him that the last thing in the world that we wish is to see the Federation drift back into being simply an idea and not an integral part of the Indian Constitution. But I think I ought to say that I do find a difficulty in agreeing—if indeed this is the time to agree or disagree—to anything in the nature of a definite date in the provisions of the Act. The difficulties that are in my mind are twofold. I am not quite sure—and here I am speaking very candidly in the presence of representatives of the States—what reaction something that might appear to be rather in the nature of an ultimatum might have on the Indian States themselves.

Again, I find this difficulty, I feel that the machinery of the Constitution will be of an extremely complicated nature, and I think that Parliament, if it were confronted with a definite date, might demand a longer interval and more cautious provisions than it would require if there were no fixed date. After all, the machinery for bringing the Act into operation is going to be of a very complicated nature. I have always contemplated that some such method as a Parliamentary Resolution of both Houses would be adopted for bringing the Federation into operation, and that that method would be adopted at the earliest possible opportunity.

What I can say to Sir Tej Bahadur Sapru is that we are going to do our utmost to remove every obstacle in the way of Federation and to remove it at the earliest possible date. Let me also say to him, we do not intend to inaugurate any kind of provincial autonomy under conditions which might leave Federation to follow on as a mere contingency in the future. We shall, as I say, between now and the passage of the Bill, do everything in our power—here I am speaking, I think, not only for the British Government but for the British delegation as a whole—to remove any obstacles that may at present stand in the way of the Federation coming into being at as early a date as possible.

Lastly, let me say a word upon another side of this part of our discussions. For the last two years we have discussed the question of certain new Provinces. We have discussed the question of Sind from the very opening of our deliberations two years ago. Last year we discussed in detail for the first time the question of Orissa. Since those discussions we have had expert enquiries into both questions.

Basing our views upon the Reports of those enquiries, basing our views still more on what appears to be a very general agreement both in India and in Great Britain, we have come definitely to the conclusion that Sind and Orissa should both be separate Provinces. No doubt there will be details of machinery to settle and some of them of a rather complicated kind. For instance, there are questions connected with the boundary of Orissa that have not yet been

fully considered. But it is the definite intention of the Government that in any all-India Federation both those great territories should enter as distinct Provinces.

Lord Chancellor, I have now dealt with the more prominent of the features of our discussions that emerge upon the more directly constitutional side of the Federation itself. Let me now come to the other series of problems that in some cases affect more directly Great Britain and in other cases affect certain communities and certain interests in India itself. I mean by this all that chapter of questions that by a rough and ready phrase we have described as "safeguards". Lord Chancellor, let me say at the outset of my observations that I regard the safeguards not as a stone wall that blocks a road, but as the hedges on each side that no good driver ever touches but that prevent people on a dark night falling into the ditch. They are not intended to obstruct a real transfer of responsible power. They are not intended to impede the day to day administration of any Indian Minister. They are rather ultimate controls that we hope will never need to be exercised for the greater reassurance of the world outside both in India itself and in Great Britain. Let me take the two instances that have been most prominent in this part of our discussions. Let me take the most difficult question of all, the difficulty of a transfer of financial responsibility. There, Lord Chancellor, I am not disclosing any secret when I say that during the last twelve months the British Government have fully accepted the fact that there can be no effective transfer of responsibility unless there is an effective transfer of financial responsibility. We have fully accepted that fact and we have done our best in the very difficult circumstances that have faced us to reconcile the legitimate demand of every Indian politician for financial control with the legitimate demand of every one who is interested in finance, not only for stability, but for a situation in which there would not even be a suggestion that stability could be questioned. For in the field of finance it is not only the fact itself that matters, but it is what people say about that fact.

Now our difficulties have arisen from two sources. In the first place, there is the fact that, as things are at present, a large part of the Indian revenue has to be devoted to meeting the obligations that have grown up during these years of partnership between India and Great Britain. That in itself—and I am sure no one would question the justice of the point of view—makes people here, investors who invested their money in Indian securities, men and women whose families are interested in the meeting of the old obligations, extremely nervous of any change. Secondly, there is the fact that we are passing through, I suppose, the most difficult financial crisis that has faced Asia and Europe for many generations. In the case of India there is a peculiar difficulty, namely, that a

large body of short-term loans, raised under the name of the Secretary of State in London, fall due for payment in the next six years. That means that, if the Federation is to start with a good name, if its solvency is to be assured, some means must be found for meeting these short-term maturities without impairing the future of Indian credit.

Lord Chancellor, those are the hard facts that have faced the Government during the last twelve months. Those are the hard facts that we discussed in great detail and with great goodwill at the Financial Safeguards Committee. The British Government, the British delegation, and sections of the Conference, came to the view that in those conditions certain safeguards were absolutely necessary if we were to keep the confidence of the world outside and if we were to make it possible in the future for a Federal Government to raise money upon reasonable terms. That, gentlemen, in a few sentences is the history of the safeguards. That, in particular, is the history of the safeguard that has loomed very largely in our discussions this year, the history of the Reserve Bank. We feel that, if confidence is to be maintained in the financial stability and credit of India, a Reserve Bank must be in effective operation. Now our trouble has been—and it has been just as much a trouble for us as it has been for those members of the Conference who have been doubtful about this safeguard—that it is impossible to say exactly when a Reserve Bank of the kind that we all agree should be set up can come into effective operation.

What I can say—and I said it to the Committee, and I say it again to this Conference—is that we will take every step within our control to make the setting up of a Reserve Bank of this kind and its successful operation effective as early as possible. We will devote all our energies to that end. If events over which we have no control—namely, events connected with the world economic depression—are too strong for us, then I gave a pledge to the Committee, and I give it again to the Conference, that we will meet representative Indians and will discuss with them what is the best step to meet that situation. I hope the situation will not arise. If it does arise, we will take Indian opinion freely into our confidence, and we will discuss with them what is the best step to be taken.

I come now to the question of Defence, a question that again has loomed very large, and rightly so, in our discussions. We had first of all, as you all remember, a debate in full Conference—a debate in which I think I may claim that there was complete unanimity that Defence, until it can be transferred into Indian hands, remains the sole responsibility of the Crown. It was, however, clear to me in the course of the discussions, and afterwards in an informal talk that I was able to have with certain leading members of the Conference, that there were differences of opinion as to the methods by which Indian political opinion might be consulted in the administration of the Reserved subject.

Sir Tej Sapru reverted to these questions in his speech last night. Well, gentlemen, I think that I can say that the British Government can go at any rate some way—I myself believe a considerable way—towards removing some of the anxieties that he and his friends feel.

Let me take in order two or three of the principal points to which he and his friends attached importance in these discussions. First of all, there was the question of the discussion of the Defence Budget. We were all agreed that it should be non-votable. In the nature of things, I think that was inevitable, but we are quite prepared to take the necessary steps to see that the Budget should be put, as he and his friends wish, in blocks, not in a perfunctory manner simply to be discussed as a whole.

Next he was anxious about the employment of Indian troops outside India without the approval of the Federal Government or the Federal Legislature. There I think he and his friends were agreed that where it was actually a case of the defence of India, in which no Imperial considerations entered at all, the defence say, of the Frontier of India itself, there the responsibility—the sole responsibility—of the Crown should remain undiluted. More difficult questions arose in cases where Indian troops might be employed for purposes other than directly Indian purposes. Now in those cases I can say to him I would prefer not to be precise as to the exact method. I myself feel sure that a means will be found to leave the decision in some manner to the Federal Ministry and to the Federal Legislature.

Next, there was an important series of questions connected, first of all, with the Indianisation of the Army, that is to say, the greater participation of Indians themselves in the defence of India and, secondly, as to the bringing into consultation as much as possible the two sides of the Government. He and his friends were anxious that statutory provision should be made in some way for both these objects. Lord Chancellor, the British Government still take the view, and we feel we must maintain it, that statutory provision is too inelastic, if you define statutory provision in the narrow sense. But I think I can meet him and his friends effectively by including directions to the Governor-General in both these respects in the Instructions.

Now he said, quite rightly, that his attitude towards that proposal would depend very much upon the Instructions themselves. As regards the Instructions we intend first of all to allude to them in the body of the Statute. And then we intend to ask Parliament to agree to a novel procedure, but a procedure that I believe is well fitted to the conditions with which we are faced, namely, that before certain of them are submitted to His Majesty, both Houses of Parliament should have the opportunity of expressing their views upon them. The effect of that would be to give the Instructions a Statutory framework by the allusion in the Act itself, and to give



them a Parliamentary framework by the Resolutions that would be passed approving of them before they are submitted for His Majesty's approval.

As to the other proposals that Sir Tej made in the matter of Defence, we still feel that the Governor-General should have an unfettered power in selecting his Defence Minister; but we will make it quite clear in the Instructions that we wish the two sides of the Government to work in the closest co-operation, and that we do definitely contemplate—I would ask his attention to this point, and we will make an allusion to it in the Instructions—that before the Estimates are actually put to the Federal Assembly the Finance Minister and no doubt the Prime Minister should have an opportunity of seeing them and giving to the Governor-General their views upon them.

I hope that I have said enough to show that if I have not been able to meet in the exact letter the wishes of Sir Tej and his friends, we have been able to go some way and I believe myself that in actual practice we shall find the result will be very much the result that he and his friends desire, namely, that although the question of Defence is a reserved question with the sole responsibility for it imposed upon the Governor-General as the representative of the Crown, in actual practice there will be the closest co-operation between the two sides of the Government.

I am afraid that I have taken up a very long time at our last meeting, but I hope I have said enough to show, not only to the Conference but to the world outside, the general outlines of the scheme that we intend to propose to the Joint Select Committee. But it is something more than a scheme upon which we have been engaged.

We have been planning a scheme and a very complicated scheme, but we have also been trying to create a spirit of co-operation. Several members of the Conference were very kind to me last night when they said that I had played some small part in helping to foster this spirit of co-operation during the last few weeks. I thank them for what they said, but I say that their kind words were really undeserved. The spirit of co-operation is due to much greater events and to much greater people than any with whom I am connected or any that I could ever hope to emulate. This spirit of co-operation is not the result of the last few weeks. It is not the result even of the last two years of meetings of the Conference. It goes back to all the many prominent men both here and in India who, each in his own way, have attempted to make better relations between our two countries—Indians as well as British men, British men of the right of politics as well as of the left. Do not let us forget even when we disagree with their views of the future the great work that some of these more conservative administrators have done for India in the past. Do not let us forget the great men who have gone from these shores to India

in recent years. We have been doubly fortunate in the Conference of this year in having two of the most distinguished ex-Viceroy to help us who have ever carried out these most responsible duties of any in the whole Empire. We have had the invaluable help of Lord Reading, not only this year but from the very opening of our discussions, and in the first year of the Conference it was to a great extent Lord Reading's help that concentrated British public opinion upon the all-important question of an All-India Federation.

This year in particular we have had the great advantage of Lord Irwin's help. Lord Irwin, if I may so say, has put, in the help that he has given us during the last five weeks, the coping stone on the great work that he did in India.

Let us not forget also, in the company of the great men who have gone from these shores to India, the invaluable work done by Sir John Simon and his colleagues. Let us set aside all the minor questions of controversy that may have surrounded the work of the Royal Commission, and let us to-day remember only that, without that work, which is unique in the Parliamentary annals of Great Britain, it would have been impossible for us British members of the Government and of the British delegation, and, I believe, for many Indian members of this Conference also, to bring to bear the instructed mind that the great complexity of these Federal problems demands at every stage.

Last night Sir Tej Bahadur Sapru made an eloquent appeal for a chapter of renewed co-operation between every section of Indian opinion and ourselves. Lord Chancellor, let me say that there is nothing that I should desire more earnestly myself. I want to see no empty chairs at the Conference with the Joint Select Committee. I will give to the words that Sir Tej Sapru uttered last night the full consideration that they demand. He will not expect me this morning to give a definite answer, either in the affirmative or in the negative, but I can assure him that I am fully conscious of the expressions of good will of which we have had evidences in India itself during the last few months and of which we have had many evidences during the course of our deliberations in this Conference. I can tell him that, whatever we may decide, the thing that we wish above all others is that he and his friends shall go back to India and tell every section of Indian opinion that there is opportunity for their help and that we need their help, just as we shall go out into Great Britain and tell our friends that, after the discussions of the last two years and particularly after the deliberations of the last few weeks, we believe that we can produce before the High Court of Parliament a scheme on the lines that we have been discussing that will do credit both to British and to Indian statesmanship.



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